

AN
APOLOGY

FOR
The Ancient Right and Power
OF THE

BISHOPS

To SIT and VOTE

IN
PARLIAMENTS:

As the first and principal of the three
Estates of the KINGDOME,

As Lord Coke sheweth, 3. *Instit.* c. 1. and other both
learned **LAWYERS** and **ANTIQUARIES**, as
Camden, Spelman, Selden, and many others.

WITH

An Answer to the *Reasons* maintained by
Dr. *Burgeffe* and many others against the Votes of
BISHOPS.

A Determination at *Cambridge* of the Learned and
Reverend Dr. **DAVENANT** B. of *Salisbury*. Englished.

The *Speech* in Parliament made by Dr. **WILLIAMS**
L. Archbishop of *York*, in defence of the **BISHOPS.**

Two **SERMONS** spoken in the House of Lords
by the Lord Viscount **NEWARKE**. 1641.

London, Printed by W. Godbid, for Richard Thrope, at the
Crosse-Key in St. Paul's church entrance into Cheape. 1660.

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Two years since spoken in the House of Lords

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LONDON Printed by W. G. for Robert Bayly at the

Sign of the Ship in St. Dunstons Church-yard 1671.



To the **READER**

DOCTOR *Williams*, Lord Arch-bishop of *Tork*, made an accurate Speech in Parliament, to defend the rights of the Bishops: and the learned Bishop *Hall*, made an abstract of his reasons, against which Doctor *Burgesse* published an Examination, wherein there is little material, if once the principal doubt be cleared, whether Bishops had anciently Votes in Parliament, and were Barons, or that which is equal, or superiour unto Barons, being accounted *Thanes*, in the times of the Saxons, before the Conquest: which I hope is so fully cleared in this following discourse, as there will be little question remaining. Though Parliaments began, as our Histories shew, long after the Conquest, in this manner as now they are held, yet they had Assemblies (*Geners*) of the Estates and principal nobility, whereof the Bishops and Clergy were alwayes an eminent party, according to the Laws and Customs of those times, and equivalent in authority to our

Parliament. They had several *Gemots*, as the first was.

Witena-gemott. idem apud Anglo-Saxones fuit, quod apud nos hodie Parliamentum: parumq; a *Folk-motto* differebat, nisi quod hoc annuum esset & e certis plerumq; causis, illud ex arduis contingentibus, & legum condendarum gratia, ad arbitrium principis inditum.

In *Folk-motto* semel quotannis sub initio Calendarum Maii, (tanquam in anno Parlamento) convenire Regni principes, tam Episcopi, quam Magistratus, liberiq; homines. Jurantur laici omnes coram Episcopis in mutuum fedus, in fidelitatem & in jura Regni conservanda. Consultitur de communis salute, de pace, de bello, & de utilitate publica, promovenda. &c.

Sciregemott. (si pluries opus non esset) bis solummodo in anno indicebatur. Aderat pro-
vincie Comes, aderat Episcopus, aderant Mag-
nates, omnes Comitatus. Episcopus jura
divina emendabat & vindicabat; Comes se-
cularia; alter alteri auxilio. De causis hic
cognitum est tam criminalibus, quam civilibus:
sed jurisdictiones postea separabat Gulielmus
primus: videtur hoc idem fuisse, quod olim
Ternum

Turnum dicemus Vicecomitis, (non minus quam hodie nunc dicitur) bis in anno tenebatur, adierantque omnes una comitatus magnates, & Terribilibus *tenentibus*

Many other Gemots and Meetings they had, but in all these publick Gemots, the Clergy were principal members as appears by the laws of King Edgar. Cap. 5. *Gemotis adsunt locii Episcopus, & Aldermannus (hoc est Comes) docetq; alter ius divinum, alter ius seculare.* Thus, the learned Glossary sheweth, out of whom it was necessary to shew the several assemblies then in use, that we need not contend about the French word *Parliament*, which came in use about the time of Hen. 3. But whatsoever their Assemblies were, the Bishops were alwayes principal members thereof: and though once in 25. Edward 1. there is mention of a Parliament at St. Edmundsbury, whereby the Clergy were excluded for denying of money (which they refused to grant by reason of a prohibition from Pope Boniface, in regard of many Levies lately raised upon the state Ecclesiastical.) As of later times, there was a Parliament once held without Lawyers, in 6. Hen. 4. at Coventry, as both

our

2. part.
Caus. in
dors. n. 4.

our Histories do testifie, and also the Kings
Writ directed to the Sheriff, whereof the
words are: *Notum est autem quod in sen-*
aliquis aliis vicecomes Regni nostri predicti,
aut Apprenticins, aut aliis homo ad legem a-
liqualiter sit electus. Unde Parliamentum il-
lud laicorum dicebatur, & indoctorum, quo
& jugulum Ecclesie atrociter petebatur, as a
learned Author saith.

Yet I hope (notwithstanding the incon-
siderate zeal of this Examiner;) our Hi-
stories shall never be blemished, with such a
reproach, as to report the loss or defect
in Parliament, of either learned Clergy
or Lawyers, to direct and assist in what-
soever matters are proper to their faculties,
and the publick welfare of the Kingdome.

*The most accurate History of the ancient City, and famous
Cathedral of Canterbury, being an exact Description of all
the Ravities in that City, Suburbs, and Cathedral: together
with the Lives of all the Archbishops of that See. Illustrated
with many Maps and Figures. By Wm. Somner:
Author of the late Saxon Dictionary. &c. And now he sold
by Richard Thrale, at the Crosse-Keyes at Pauls gate, en-
tering into the City-gate.*

there was a Parliament once held without
Lawyers in & County, as both

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An

AN APOLOGIE
FOR
The BISHOPS

To Sit and Vote in
PARLIAMENTS.

CHAP. I.

*Concerning Government Ecclesiastical and Civil in the
State of Nature; from Adam till Moſes; which
was about 2500 years. The ſame perſon was both
chief Magiſtrate and alſo Prieſt unto God.*



God had a Prieſthood alwayes from
the Begining of the World, to
perform the duties of his Worſhip,
and the Riſes thereof. Adam was
a Prieſt unto God; to offer Sacrifice;
and to execute ſuch duties as God
required in his Service. But Adam
was alſo King or Chief Ruler, over
all his Children and Poſterity. So
after Adam, Seth, and the righteous Patriarchs, Emich
and others, were Prieſts unto God, as well as Princes; and

B

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Magistrates, and they taught Noah how to call upon God, and how to serve him.

So Noah was also a Prince, and also a Preacher of righteousness, as the Apostle saith of him, so that it was not incompatible, or inconsistent for the same man to be a Magistrate, Prince, or Governour, and also a Priest. Melchisedech, after the Flood, was the first that was called a King and a Priest: and so Christ is a King and a Priest after his order. So that under the Law of Nature, Kings were invested with a power Ecclesiasticall both of Order and Jurisdiction: Therefore these things are not incompatible by Nature; and thus it continued for the space of 2500. years from Adam till Moses.

Princes and Priests were formerly the same, both Functions residing in the same person: *Majorum hac erat consuetudo (saith Servius) ut Rex esset etiam Sacerdos, vel Pontifex: unde hodie quoque Imperatores Pontifices dicimus.* They that had the managing of affairs of State, had also the executing of Divine offices, and so received divine and holy duties, and oblations: which use obtained in the Families of the old Patriarchs.] Thus the Learned Montague against Selden, cap. 3. p. 537.

Ante Legem datam ad primogenitos pertinebat offerre sacrificia, ——— Levitis successerant loco eorum. And again to the same purpose: *Cultus divinus ante legem datam pertinebat ad Primogenitos Israel.* And again: *Sacerdotium fuit annexum primogenitura usque ad legem datam per Moysen.* As Lyra says, reporting the received judgements of the best Interpreters. Lyra in Numb. 3. 12. & 8. 16. in Gen. 14. *Veteribus ordinarium & perpetuum fuit, ut qui Reges essent, idem etiam sacerdotia fungerentur,* as Boetius says, cap. 6. *De politica Judaea.*

The Priviledges which in the Law of Nature followed the Birth-right, were these three, First, the Government or Principality. Secondly, the Priesthood. Thirdly, a Portion answerable to maintain these dignities.

The same light may appear, though much darkned in the ancient Government of the Heathen; for Heathen Kings are witnessed in old times to have been Priests of such Gods as they served, which ancient combining of these two offices,

offices; in one person; came from the ancient practise in the time of the Law of Nature, and from the light of Nature was received among the Heathens.

Abraham was a Priest in his own Family; and in several places of his Peregrination, he built Altars; and places, where he did call upon God, and perform all duties of Gods Worship then requisite. *Abraham* did offer Sacrifice, as appears *Gen. 15. 9. & 22. 7. 2, 7, 8.* *Abraham* was a Prophet, *Gen. 20. 7.* and received many promises from God especially concerning Christ to descend of him; and God gave him the Sacrament of Circumcision, and established his Covenant with him, God saith of him, *Gen. 18. 19. I know him, that he will command his Children, and his Household after him, and they shall keep the way of the Lord, to do justice and judgements, &c.* —

And as *Abraham* did, so likewise did *Isaac*, and *Jacob*, after him, who built Altars unto God, which was as much then as to build a Church in these dayes, and to provide a Minister to preach, and pray, and administer the Sacraments, and perform all other duties of a Pastor.

Hence it appears fully, that in the time of Nature, there was not two several jurisdictions, one Ecclesiastical, the other Civil, as is now among us. But the same persons, discharged both Offices, and all Duties belonging to them.

And further it appears, that the priests being the first-born, and chief men, had such honourable respect and maintenance, that they were not reckoned among the lowest of the people, and made the off-scouring of all things, as now they are.

If the Clergy may not enjoy any temporal office, or dignity, they will be crushed down, and oppressed in all publick occasions, as they find it manifestly in these troublesome times, when the neighbours of every parish do impose all Taxes, Burdens, and Charges upon Ministers, more then they formerly used to do, or in reason can be allowed. But the Clergy have no means to help themselves, having none of their own tribe in authority, power, or place of judicature as formerly they had, whereby they could help themselves, and restrain the Lay-men from imposing Burdens,

and charges upon them in excessive manner. It is easie to shew particular instances, and one of many shall be mentioned.

When all the Judges of the Land, about 20. years agoe, had given their opinions and directions in writing, upon particular doubts to Justices of peace, incident to their offices; one doubt was, how much, and in what proportion a Minister should be charged for Levies to the poor. The Justices in the Country, and the Neighbours of the parish, would tax the Glebes severally from the Tithes, and so augment the Levy to a great proportion, both for Glebe and Tythes: But the Judges appointed in their answer, that Glebe and Tythes should be both taxed together, at a tenth part of the Levy, in regard Tythes are abated much by small rares, and much Land is discharged of Tythes in kind. But now in these troubles, the Committee-men, and such like, impose Taxes, upon the Glebes severally, and Tythes also, imposing a sixth, or seventh part of the Taxe upon the Tythes, which is contrary to the resolution of the Judges. But Ministers have no remedy to help themselves, there being none of the Clergy upon the Bench in any authority.

CHAP. II.

Of the Government of the Church and State of Israel, by Moses and Aaron, and their Successors until Christ, about 1500 years. That there were not two severall Jurisdictions, one Ecclesiastical, the other Civil.

When God delivered his chosen people out of *Egypt*, and conducted them through the *Wildernesse*, towards the promised Land of *Canaan*, He began first to publish his Law; And by *Moses*, delivered them many Laws, in Five Books.

Whatsoever

Whatsoever Lawes he gave, either moral, ceremonial or Judicial, they are all contained in the Five books of Moses, and no man could better understand them then the Priests and Levites. For God made his Covenant with Levy, of Life and Peace: The Law of Truth was in his mouth: The Priests Lips should preserve knowledge, and they should seek the Law at his Mouth. Mal. 2. 5, 6, 7. and so Ezekiel 44. 23. They shall teach my people the difference between the Holy and prophane, and cause them to discern between the unclean, and the clean: and in Controversie they shall stand in judgement, and they shall judge according to my Judgements, and they shall keep my Lawes, and my Statutes, in all mine Assemblies. They being the principal Judges and Lawyers in that Common-wealth, of Gods own Constitution. And whereas it is now granted on all hands, that there were three Courts of Justice in that Kingdome. 1. The great Council of the 70. Elders. 2. The Court of Judgement, which was in every good Town where there were many families. 3. The Court of three, or some few more. The Priests and Levites, were principal men, both Judges and Officers in all Courts, *Scophim & Scoterim*, as 1. Chron. 23. 4. both to give sentence and judgement, and also to execute the same: So the Divines do affirm in their late Annotations upon 1. Chron. 26. 29 30. & 2. Chron. 19. 8. 11. They did study the Judicial and polirick Laws, and had power to see the Law of God, and Injunctions of the King to be observed, and to order divine and humane affairs. And they held also other honourable offices, for we read that Zechariah a Levite, was a wise Counsellour, and Benajah a Priest, Son of Jehoiadab, was one of Davids twelve Captains, being the third Captain of the Host for the third month, and in his course consisting of 24000. was his Son Amizabad: Benajah also was one of Davids principal worthies, having the name of the three mighties: He was also Captain of the guard to David, and after the Death of Joab, he was made Lord General of the Army, by King Salomon, in Joabs room; 1. K. 2. 35.

1. Chr. 16.
14.

1. Chr. 27.

5.

1. Chr. 11.

22.

It is recorded 1 *Chron.* 26. 30. That of the Family of the *Hebronists* (*Levites*) there were a thousand and seven hundred Officers, on this side *Jordan* westward, in all businesses of the Lord, and in the service of the King; and two thousand and seven hundred chief Fathers, and men of valour, whom King *David* made Rulers, over the *Benjamites*, the *Gadites*, and the half Tribe of *Manassas*, for every matter pertaining to God and affairs of the King. v. 31. 32. Whereby it manifestly appears, that the same Judges, and Officers, being Priests and Levites, most of them did hear and determine all sorts of causes, pertaining to God and affairs of the King, both Ecclesiastical and Temporal; so that there was not several Courts, the one Ecclesiastical, and the other Civil, as in these times, some do affirm too peremptorily, according to the Common practise, and usage of these days, as *Godwin* in his *Moses and Aaron* lib. 5. *Berns*, *Junius*, and divers others, with the Kirkmen of *Scotland* lately, *Rutherford*, *Gillespie*, *Baily*, and others. So also the *Papists* generally, who that they may establish the *Popes* Supremacy, above Kings and their Common-laws, do affirm, that *Regimen Ecclesiasticum est distinctum a politico*, as *Bellarmine de Romano pontifice* lib. 1. cap. 5. so our zealous party for the like ends and reasons, would maintain a Government in the Clergy, separate from, and independent upon the Civill Magistrature, and such as ought to be directed and ruled only by the word of God, and his Spirit, ruling (as they suppose) in their classcal Assemblies; where they think the Throne of Christ is only to be advanced, and all his holy Ordinances put in execution.

Whereas the King is *Custos utriusque tabula*, and the Supremacy in causes Ecclesiastical, as well as Temporal, is acknowledged by our Statutes, and annexed to the Crown. For Execution thereof, an Act was made 1. *Elix.* cap. 1.

But if the Statute had not been made to annex the Supremacy to the Crown, yet as the Lord *Cook* saith, 4. *Instit.* p. 331. King *James* hath, and Queen *Elizabeth* had before him, as great and ample Supremacy and Jurisdiction Ecclesiastical, as ever King of *England* had before them, and that had justly and rightly pertained to them by divers other

ther Acts, and by the ancient Law of England, if the said clause of annexation in the said Statute 1. *Eliz.* had never been inserted.

But *John Pym* in his Speech in Parliament 4. *Caroli*, as *Rushworth* hath it in his late Collections, saith, that the high Commission was derived from the Parliament.] As if the Parliament gave the King the Supremacy as a gift of their own, and that it was not vested in the Crown; but as they gave it, so they may take it away when they please, and suppress the Court of high Commission, as they have done; The duty of the Court was, *to reform and correct all Heresies, Schismes, Abuses, Offences, Contempts, and Enormities.* But now upon Suppression of the Court, all Heresies and Schismes in the world are broke out, and such abominable abuses, offences, and enormities, as never were known in this Kingdome, with allowance and toleration.

Pag. 659.

This follow's upon the new light and doctrine of *John Pym*, and all the rest of the Presbyterians who have stirred up all these troubles, and of late they called the House of Commons, the Supream power of the Nation in all Addresses and Petitions made unto them.

It was a great Error of *Calvin* and *Beza*, and many others that follow them, to affirm that there was one Court Ecclesiastical, and another Civil in *Israel*. *Calvin* upon *Jeremiah* 19. 1. pag. 152. saith, *Scimus duos fuisse ordines publicos, vel duplex regimen ut loquuntur; sacerdotes erant præselli Ecclesia, nempe quoad legem, ita ut spiritualis esset eorum gubernatio; erant seniores populi, qui prae erant rebus politicis, utriusque vero quaedam inter se communio.* *Calvin* understood only the plain Hebrew, not the Rabbins, and Talmud, nor the Jewish Antiquities: Therefore in several places he is mistaken, as upon *Numb.* 11. 17. Where God appointed first the 70. Elders to be joyned as Assistants to *Moses*, He doth interpret the Text, *I will take off the Spirit that is upon thee, and put it on him*, as if the gifts of the Spirit which *Moses* had were diminished in him, and imparted to the 70. which is not truly said by *Calvin*; for as *Salomon* *Jerohu* saith, *Moses* is that bower was like the Lamp that was burning on the candlestick in the Sanctuary from which all the other lamps were lighted, yet the light thereof

was.

was not lessened any whit.] *Deus ex Moysi Spiritu tollens, quod aliis distribuit, ignominia notam qua dignus erat, fugit, minime dubium est, quin diminutio notetur:* This is spoken very harshly and untruly by Calvin, as learned Authors have shewed his Error herein.

So upon *Deut. 17. 8. 9. 10.* Where the Priests and Levites were appointed Judges in great matters, *between blood and blood, between Plea and Plea, and between stroke and stroke, being matters of Controversie within thy gates:]* Calvin doth so interpret, as if the Priests and Levites were only to expound the Law to the Temporal Judges, but not to sit as Judges upon the bench themselves with especial authority, as the other Elders and Judges did. Wherein he was much mistaken. For the Priests and Levites were principal Judges in all matters, and causes whatsoever, not only Ecclesiastical but Temporal; not only for explaining of the Law, but executing the same.

The Learned *Casaubon* in his Exercitations upon *Baronius 13. Sect. 5.* shewed that the Priests and Levites were the principal judges in the general Council. *Huius Concilii ea fuit institutio, ut sifieri posset. e solis Sacerdotibus & Levitis constaret, qui non erant e Tribu Juda sed Levi: itaque & in Bibliis aliquando, & apud Josephum appellatione sacerdotum intelligitur ipsum Synedrium: Sive numero sacerdotum aut Levitarum non reperirentur qui definitum Judicium illorum numerum impleverent, tum demum aliis Judaeis aditus in Synedrium patuit, nulla Tribu habitatione. Hoc Maimonides declarat, &c.*

Bancroft in his Survey cap. 25. doth fully shew the error of Calvin and *Beza*, in dividing the Courts, and doth accurately confute them, to whom I refer.

And further of late, the excellently learned *Grotius* hath also accurately cleer'd the point. *Quod quidam arbitrantur duos fuisse senatus summos Judeorum, alterum qui civilibus, alterum qui Ecclesiasticis negotiis praesset, de eo quid nobis videatur, alibi eris dicendi Locus, in Mal. 2. which he doth perform upon Mal. 5. very exactly. Cum pingue haberent otium, non tantum omnia legunt, sed & medicina aliarumque artium diligenter ediscebant, ut & Egyptii sacerdotes; ideoque primis saeculis ex illis ut eruditionibus senatus 70. virum legi maxime solebat. Grotius in Deut. 17. and so*

in *Mal. 5.* Cum sacerdotes opimo fructus otio omnibus sapien-
tia partibus præter ceteros, operam darent, aquum erat ex ho-
rum numero, aliquam-multos allegi in ordinem illum, cui jam
suprema etiam judicia credita fuisse diximus, quanquam nemi-
nom fuisse qui originis dignitate eum locum sibi posset vindicare,
scripsit *Maimonides, &c.* Florentibus Hebraeorum re-
bus, fieri aliter non poterat, quin in sacerdotum classe plurimi
reperirentur digni eo loco: his addebantur alii qui in aliis tribu-
bus doctrina & sanctimonia eminebant. Quamobrem Moses
Deut. 19. 17. De falsitestimonii cognitione agens, & senatum
hunc describens, sacerdotes & iudices nominat; alibi etiam de ex-
ploranda diligentia iudicum inferiorum in cognoscendo homicida,
ipsi sacerdotes, tanquam ejus senatus, pars præcipua, nominantur.
&c.

Hoc ipso in loco (*Deut. 17. 8, 9.*) non distinguuntur cau-
sarum genera, neque vero causa ulla nominantur, quæ propriis vi-
deri possent sacerdotales, sed si quid controversi incidisset, de ho-
micidio, de lise, de vulnere, jubentur adire sacerdotes — &c.
neque vero alia fuerant judicia sacerdotis, alia senatus id
enim omnes Hebraeorum Magistri constanter negant. And much
more he addeth out of *Josephus* — and doth also accurate-
ly expound the Texts, 2. *Chron. 19.* Concerning *Josephus*
reformation and placing of Judges in Jerusalem, as also the
Text in the prophet *Jer. 26.* where some priests do accuse
the prophet, and the Princes do absolve and free him. —
So in his Book *De imperio summorum potestatum. cap. 11. Sect.*
15. He doth accurately handle this Question. *Ubi explican-*
tur Judeorum cum minora judicia cum magnam; & ostenditur
apud Judeos eosdem fuisse qui de sacris & profanis iudicabant,
qua sint negotia Dei qua Regis.

So *Bertram* a learned Lawyer, *De politia Judaica. cap. 9.*

So *Sigonius* de *Repub. Hebraeorum. lib. 6. c. 7.*

So *Suicerus* in his *Exercitationes. lib. 1. cap. 54.*

So *Schickardus* de *jure regio Hebraeorum. c. 1. pag. 9. 10.*

So *Selden* in his *Uxor Hebraica. cap. 15.* Quod vero à non-
nullis, usque aliquin doctissimis obtenditur, Presbyterium fuisse
singulare quoddam forum, apud Judeos, quod de Religionis & re-
bus sacris solum cognosceret quale apud nos dicitur Ecclesiasticum, a
doctrina Talmudica, atque ab ipsa veritate est longe alienissimum,

pro diversitate jurisdictionum ampliandis idem ipsum ubique in ea Republica seu Ecclesia forum, de rebus sacris ac Religione iudicabat, quod de profanis, seu quæ non sacra. And since this, Selden hath more fully proved it in his books *De Synedriis Iudeorum*, to which I refer, and further the learned Dr. Hammond hath most accurately proved and illustrated it, in his Annotations on the New Testament, as on *Luke 3.* and *Acts 4.* and other places, that there needs no further proof; Selden in his Preface to the first Book *De Synedriis* pag. 9. terms it, *Duplex seu Bisurcatum in Christianismo regnum seu imperium, Politicum seu Magistraticum, ut appellatur, amat, & Ecclesiasticum, ab illo prorsus sic distinctum, quasi Binos quis fingeret soles.* &c.

CHAP. III.

Concerning the Union of the Courts of Justice in the time of the Saxon Kings, after they were converted to the Faith; The Division of the Courts being brought in by William the Conquerour, as appears by his Statute.

THE union of Courts continued from the beginning of the World for four thousand years, as Selden affirmeth, *lib. 2. De Synedriis*, in the preface, p. 2. How that course came to be changed, will appear by what followeth here. The distinction of Courts seems to have proceeded first from Pope Nicholas the first, as is mentioned in Gratian, *Can. Cum ad verum*, 96. *Dist.* About 200. years before the Conquest. Which was imitated among us, by William the Conquerour, whose Statute to that purpose is recited and illustrated by Spelman in his Glossary and Councils, and by Selden in his History cap. 14. and in his notes upon Eadmer, pag. 167. and also published by Lord Cook 4. *Instit.* cap. 52.

But the Union of Courts in England continued till the time

(omn)

time of William the Conquerour, as the learned Antiquary
Spelman sheweth in his Glossary, in *Cotes* pag. 3. *Munus*
comitis iudicarium fuit, vim & injuriam prohibere, latrocinia
composcere, pacem regiens non solum legum transire, sed armis e-
ssiam promovere, iura regia, & vestigalia curare colligere, fisco in-
ferre. Præsidebat autem foro comitatus, non solus sed adiunctus E-
piscopo; hic ut ius divinum, ille ut humanum diceret; alterque al-
teri auxilio esset, & consilio: præsertim Episcopus comiti; nam
in hunc illi animadvertere saepe licuit, & errorem cohibere.
Idem igitur utriusque territorium, & jurisdictionis terminum.

Hereby it appears that the Bishop and Earl of the County
were joint governours, — but the Bishop was principl-
pal, for he had power to restrain the Earl if he did do amiss;
the Bishop being learned, but the Laity in those days alto-
gether destitute of Learning and Knowledge. So that it is
certain that the Bishop and the Earl (or Aldermen) sat
both together in the same Court, together with their Assi-
stants and Surrogates, and so did assist each other with Coun-
sel and authority: and in the forenoon they heard Church
causes, and in the Afternoon temporal business. This man-
ner did preserve amity between the Clergy and the Laity,
that they did not clash for jurisdiction by sending prohibiti-
ons, Injunctions and cros orders, as in our times, which do
occasion great vexation to the people, and prolonging of
Suits, and doth multiply charges extreamly. It is therefore
certain, that the Bishops and principal Clergy were always
of great authority in our Kingdome, especially for making
of Laws and Constitutions of all kinds, and executing of
them, which is manifest by all the Laws themselves of the
Saxon Kings; for about 500. years before the Conquest.
Wherein they first testifie that the Laws were made by the
consent, suffrage, and approbation of the Bishops.

First *Ethelbert* the first Christian King of the Saxons made
Laws which are entituled thus, —

Hec sunt Decreta seu iudicia huius Ethelberti Regis constituta,
in tempore Augustini post hoc quod dicitur, *sen in itinere*
et in eo quod dicitur in itinere *et in eo quod dicitur in itinere*

As Sir Henry Spelman hath recorded them in his *Constitutes*

pag. 127. All the Laws then made, are not recited by Spelman: but they are extant in the old Book called *Textus Roffensis*. Written by Ernulph a Bishop of Rochester.

Beda de his scribit. lib. 2. cap. 5. Mortem & sepulturam Ethelberti referens: Inter cetera (iniquit) bona qua genti sua consulendo conferebat, etiam decreta illi iudiciorum iuxta exempla Romanorum, cum Consilio sapientium constituit: Qua conscripta Anglorum sermone hactenus habentur, & observantur ab ea: In quibus primitus posuit, qualiter id emendare deberet, qui aliquid rerum & Episcopi vel reliquorum ordinem auferret: valens scilicet tuitionem, eis quorum doctrinam successerat, prastare.] Sequuntur multa ad vitæ probitatem, & morum Correctionem pertinentia; saith Spelman in his Notes. Which Laws were casually omitted by my absence from the Presse at that instant, but shall be added if ever a second edition be made.

But certainly *Augustin* was the principal Bishop that did make these Laws, though other names are not put down, but his only, being the principal. Yet in other Councils following, divers Bishops are mentioned, as in the Laws made by King *Ina*. Anno 693.

Ego Ina Dei gratia West-Saxonum Rex exhortatione & doctrina Cennedes patris mei, & Heddes Episcopi mei, & Erkenwaldes Episcopi mei, & omnium Aldermanorum meorum, & seniorum, & sapientum Regni mei ——— Constitui, &c. ———

So in the beginning of King *Ethelstan*. *Ego Adelstanus Rex Consilio Wulfelmi Archiepiscopi mei, & aliorum Episcoporum meorum, mando prepositis meis omnibus.*

Likewise in the lawes of King *Edmund*.

Lambard
pag. 1.
Council,
p. 186.
Lambard
pag. 57.
Council
p. 402.

Edmundus Rex congregavit magnam Synodum Dei ordinis & seculi, apud London Civitatem, in Sancto Pascha solennis, cui interfuit Odo, & Wulfstanus Archiepiscopi & alii plures Episcopi, &c.

The same appears by the Subscriptions to the laws, made by the Bishops and principal Clergy, and Abbots of their several times, which are so frequent to be observed in all ancient Charters and laws, in the first Tome of our English Councils, that I will forbear many particulars, only one

one for example sake, being the Custome then to testifie their approbations not by voting, but by subscribing their names, to approve and grant the laws made in Parliamēt. and not to refer all to a Register or Clerk, to take notice of what is granted, and by what persons present.

The Subscriptions to a Charter of King Edgar, to
The Monastery of *Glasten*.

Ego Edgar Rex totius Britannia prefatam libertatem cum sigillo Concil. p.
sancta Crucis confirmavi. 486.

Ego Elfgina ejusdem Regis Mater cum gaudio consens.

Ego Edward filio Patris mei donum cum Triumpho sancta crucis impressi.

Ego Kineadrius Rex Albanie adqueivi.

Ego Mascusius Archipirata confortavi.

Ego Dunstanus Dorobernensis Ecclesia Archiepiscopus cum Trophæo sancta Crucis, & cum suffraganeis presulibus Regis donum corroboravi.

Ego Oswald Eboracensis Ecclesia primas, consensu subscripsi.

Ego Eitelnoldo Wintoniensis Ecclesia Minister & Glasten Monachus signum sancta crucis impressi.

Ego Brichthelm Fontarenensis Episcopus consentiens corroboravi.

Ego Elslam Episcopus confirmavi.

Ego Oswald Episcopus adqueivi.

Ego Elfnolde Episcopus concessi.

Ego Winsige Episcopus, cum signo sancta Crucis conclusi.

Ego Segegar abbas vexillum sancta crucis impressi.

Ego Efcni abbas confirmavi.

Ego Ordgar abbas corroboravi.

Ego Eitelgar abbas concessi.

Ego Kinword abas Concessi.

Ego Fidemm abbas consolidavi.

Ego Elphets Abbas subscripsi.

Ego Adulf Heresfordensis Ecclesia Catepiscopus corroboravi.

Ego Elphene Dux Domina mea sancta Maria Glasteniensis Ecclesia

fiel libertatem omni devotione cum sigillo sancta crucis confirma-
mavi.

Ego Oslack dux consensi.

Ego Ethelwine dux hoc donum triumphale hagiæ crucis propria
manus depictione impressi.

Ego Osnald minister confirmavi.

Ego Elfwurde minister corroboravi.

Ego Eltheſe minister consensi.

Ego Elſkie minister consensi.

Thus first the King, Queen, and Prince do subscribe;
then the Bishops; afterward the Abbots; and lastly, the
Noble men; howsoever they were then called.

The Bishops in all other Christian Kingdoms, as in the
Empire of Germany, France, Spain, Portugal, Poland,
Hungary, and all others, as Denmark and Sweden; since
the Change of Religion there, have place and power in all
their Parliaments and publick Assemblies. The Bishops Ec-
lectors of Germany, Mentz, Triers, and Colon, have place
and precedency of the Temporal Electors, the Duke of Ba-
varia, Saxony, and Brandenburg, as our Bishops had place,
sitting on the right hand of the King in the House of Lords,
and the Temporal Lords on the left hand. And also out of
the House the Bishops had precedency of all Barons. And
the two Arch-bishops of Canterbury and York, had place of
any great Temporal Lords, Dukes, Earls and Marquesses,
or great Officers, as appears by the Statute of 31. Hen. 8.
c. p. 10. and Lord Cooke, 4. Inst. pag. 361. and to what
end should they hold such priviledges and places of Honour
in Parliament, unlesse they had the right and power of vo-
ting in all Cases (unlesse in cases of blood :) and all our an-
cient Parliaments and Statutes, do fully reckon the Lords
Spiritual in the first place, and then the Lords Temporal,
and lastly the House of Commons. These being the three
estates in Parliament: but the Kings person doth not make
one of the three estates (as some of late have affirmed) but
Lord Cook the great Oracle of our Common-Law, doth o-
therwise account 4. Inst. cap. 1. Shewing of what persons
the Parliament consisteth.

This

This Court consisteth of the Kings Majesty, sitting there, as in his Royal politick capacity, and of the three estates of the Realm, viz.

First, Are the Lords Spiritual, Arch-bishops and Bishops, being in number 26. who sit there by Succession, in respect of their Counties or Baronies, parcel of their Bishopricks, which they hold also in their politick Capacity. And every one of these, when any Parliament is to be holden, ought ex debito iusticie to have a Writ of Summons.

2. The Lords Temporal, Dukes, Marqueses, Earls, Viscounts, and Barons, who sit there by reason of their dignities, which they hold by Descent, or Creation, in number at this time 106, and likewise every one of these, being of full age, ought to have a Writ of Summons, ex debito iusticie.

3. The third estate is the Commons of the Realm, whereof there be Knights of Shires or Counties, Citizens of Cities, and Burgeses of Burroughs; All which are respectively elected by the Shires, or Counties, Cities and Burroughs, by force of the Kings Writ, ex debito iusticie. And none of them ought to be omitted, and these represent all the Commons of the whole Realm, and trusted for them, and are in number at this Day, 493.

In the beginning, Romulus ordained a hundred Senators for the good Government of the Common-wealth, afterwards they grew to 300. and so many were of the House of Commons in Fortescues time, cap 18 fol. 40. as Lord Coke alledgeth him.

How

How the number of the Commons is increased to 500, or more, let them inquire that please, perhaps the number of Burgesses of Corporation, and some Towns which the Kings have lately allowed to come unto the Parliaments, may be a reason of their great increase.

4. Instit.

Lord Coke saith, that anciently when the Parliaments were holden at *Westminster*, the Commons sat in the Chapter-House of the Abbot of *Westminster*, and the Common Chronicles do mention, that heretofore in the time of H. 8. The Commons sat in the *Black Friars* where there were many large Chambers and Rooms; But since the dissolution of *Cottages* and free-Chappells. 1. Ed. 6. c. 14. The Commons sit in the ancient and beautiful Chappel of *St. Stephens* Abbey, founded by King Stephen, so that they now sit in the Temple of God.

The learned *Montague* against *Selden* cap. x. pag. 290 saith, that *Sedet in Templo Dei*, may be understood either *Materialiter* as the great *Turk* doth, whose palace is that which sometimes was the chief patriarchal Church, built by *Justinian* the Emperor, the Church of *sancta Sophia*; or *Spiritualiter*, taking it for *contra Ecclesiam Dei*, by persecuting Christians in quantum Christians, (for that they profess the name of Christ Jesus) who are the living Temples of the Holy Ghost, ——— &c. ———

The Bishops presence and voting in the Parliaments, may well seem necessary in these times, when the Parliament doth undertake to determine Controversies of Religion of the greatest difficulty, as of *predestination*, *absolute Reprobation*, *universal Grace*, *Free-will*, and *final perseverance*.

Sir *John Eliott*, and *John Pym*, zealous men in Religion, would not yield to the King (40 *Caroli*) Tunnage and Poundage till they had first settled Religion, touching the points of *Arminianisme*; they accounting that *Arminius* was an upstart Heretick, very dangerous to the truth; as *Rushworth* relateth in his Collections. p. 659.

Now if Parliaments will undertake to dispute and determine such great and difficult points of Religion, as of *Predestination*, *absolute Reprobation*, *universal Grace*, *Free-*

will

will, and final perseverance; It is fit that the learned Bishops should have power to vote in such difficult matters, of so great Concernment, as well as any Members of the House of Lords or Commons: for it is well known that many of the Bishops are men of excellent Learning, judgement and abilities, as being long trained up in the Universities, and some of them publick professors, reading Lectures in Divinity and Heads of Colledges, that they might be well informed concerning these points, or any other better then Sir John Eliot, or John Pym, or any other Member of the House of Commons, whosoever he be, or of the House of Lords, whereof very few are learned or expert in the difficult points of Gods Decrees. And whosoever is wise and sober, will be willing to refer these matters to the Convocation, who are a part of the Parliament, and have the same priviledges as other Parliament men have, as Lord Cook sheweth, 4. *Instit. cap. 74. pag. 322. &c.* — And their proper office and duty is to debate of matters of Religion, of Heresies, Schismes, and other like matters as Lord Cook sheweth very fully. The Bishops being the principal men, that Reformed our Religion, made the 39 Articles, both the lesser and greater Catechism, Common Prayer Book, and the Book of Ordination, the Homilies, and whatsoever else hath been settled in Religion, so that they are most necessary and fit to be present in all Parliaments.

Dr. Burgess having written an examination of the reasons, asserted by Bishop Hall, and Archbishop Williams of York, And this Author having written against his examination of the reasons, the Doctor made a further Reply. Wherein he saith pag. 5. that if it can be made good, that in the * *Wetten-Gem.* of the Saxons, the Bishops exercised a legislative power in voting of laws, as our Bishops have done in Parliaments; the Examiner must provide him another Advocate; for my part I must yeild the cause.

I hope it appears clearly, by that is here alledged out of good Authority, — that the Bishop had a legislative power in voting, and therefore by his own confession he must yeild the cause, and contend no farther about it.

There is one reason further to be considered, why the Bishops might well be of great Authority in all Parliaments and publick Assemblies, and that is by reason of their Learning and Knowledge in languages, and matters of Law and policy, which they got by travail into forraign parts; for most of them in their youth, were bred in the *English Colledge at Rome*, which was built and endowed by the Kings of *England*. Ina, and many others after him, for the education of Learned Scholars, sent thither out of *England*, there being then no Universities, neither *Paris*, nor *Padua*, nor *Oxon*, nor *Cambridge*. Only *Rome* was the principal place for Learning in these Western parts: and therefore our *Saxon* Kings built the Colledge there for *English* Scholars, and purchased Lands in *Italy* for the maintenance thereof; and also gave the *Peter-pence* for their better allowance and encouragement, which as Mr. Fuller accounteth in his late History, was the sum of seven thousand and five hundred pounds.

Lib. 5. p.
197.

Concil.
Britanni-
ca.

x

The *Peter-pence* was given, not as a Tribute to the Pope, as our Common-Chronicles do grant it, and *Polydorus Virgilius*, and *Baronius*, but as a stipend to maintain the *English Colledge*. As *Spelman* sheweth clearly, upon the word *Denarius St. Petri*, which Doctor *Burgeffe* might have observed better, and not have yeilded it to the Tribute paid to the Pope, as he doth grant it. pag. 18. of his Reply. King *Henry* the eighth, and those about him had forgotten the true use of them, and therefore in the Tempest of his Indignation, swept them away among other superstitious things in a Statute, but it might have been justly continued for the first intention and purpose, to educate learned men beyond Seas, to learn the Civil and Common Law and forraign languages, also matters of State, who upon their return home after some seven or eight years, would deserve best to be preferred to publick places in Church or State: The Kings of *England* well knowing the necessity of such learned men, did anciently, and of late, send some choice Scholars, out of either Universities to forraign Countries, (as *Cambden* observeth, speaking of Sir *Thomas Smith*, Anno 1577.) *Annis maturior selectus ut in Italian*

Italian Regis impensis mitteretur, ad nostra enim tempora nonnulli adolescentes optima spei, ex utraque Academia, ad uberiorum ingenii cultum Regum sumptibus, in exteris Regionibus alebantur.

So was Cardinal Pool in his younger years, sent abroad by Henry the eighth, Sir William Paget, Sir Thomas Smith, Sir William Peters, and Sir John Mason, these two having been fellows of *All-Souls* Colledge in Oxon, but being further bred abroad in forraign Countries, they gained great experience and wisdom, and were made either principal Officers or Secretaries of State at their return home, and were principal men about the King for Counsel and disputes of businesse, and guided the Kings Counsels in affairs of most importance. Education in our own Universities at home, is not sufficient to enable men for all publick places and offices under a King. It is well known, that learned young men of the best sort in the Universities, being sent abroad to travail, when they come home are commonly men of far better abilities then such as have only stayed at home, as of late years Sir Edwin Sandys, Sir Isaac Wake, Sir John Digby, Sir Element Edmond, and Dr. Bryan Duppa, now Bishop of *Salisbury*, both these having been fellows of *All-Souls* Colledge, and Docter Duppa specially chosen to be the Princes Tutor, having been bred a Civilian in his Colledge, and eminent besides for all polite Literature, and proctor of the University, and afterwards travailing into *France* and *Spain*, upon his return home, it was not long before King Charles took special notice, and made choice of him for the instruction of his three Sons, who are now the most accomplished Princes in Christendome, notwithstanding the late disturbance and Rebellion of these present times, and are likely to prove the most renowned, when the present troubles shall be composed. Education goes beyond nature, as *Aristotle* sheweth, 1. *Ethic*. Good instruction, and learned Education, doth add those perfections which cannot be obtained with ordinary helps, and by such men as know only their own native Country and Climate.

The opposition that some men make against the Votes and presence of the Bishops in Parliaments, and other places of Office and imployment under the King, doth arise from that false principle; that jurisdiction Ecclesiastical and civil, ought to be distinct and separate both for persons and their imployments. Which is already here confuted, it being one grand error of Calvin and Beza, with divers others that follow them too closely in all opinions, as if they had been men free from error.

Common

Our Bishops in ancient times were most part Lawyers; learned in the Civil and Canon Laws, and thereby also knowing much in the Canon Law, and therefore they were the chiefest Judges of the Land in all Courts of Justice, as Spelman sheweth in his learned Glossary for 200 years after the Conquest, reckoning the Catalogue of the great Lord cheif Justices, being most part men of the Church, pag. 409. 410, &c. — and so pag. 131. *Fungebantur antiquæ cancellariatus dignitate viri tantum Ecclesiastici & Episcopi, qui præterea Curam gerebant Regia capella, repositaque illis Monumenta, (Rotulos & Recordæ vocant) sacra custodia tuebantur.* — &c. —

And so also Lord Cook sheweth, 1. Instit. lib. 3. pag. 304. B. In ancient time the Lord Chancellour and Treasurer, were most part men of the Church, yet were they expert and learned in the Laws of the Realm, as for example in the time of the Conquerour. *Egelricus Episcopus Cicestrænsis, viz. Antiquissimus & in legibus sapientissimus. Nigellus Episcopus Eliensis Hen. 1. Thesaurarius in temporibus suis incomparabilem habuit Scacarii scientiam, & de eadem scripsit optime. Henricus Cant. Episcopus. H. Dunelm. Episcopus. Willielmus Episcopus Eliensis. G. Rossensis Episcopus. Martinus de Pateshall Clericus Decanus divi Pauli London. constitutus fuit capitalis Justiciarius de Banco, — &c. — Willielmus de Ralegh Clericus Justiciarius Domini Regis. Johannes Episcopus Caliolensis, temp. H. 3. Robertus Passelen Episcopus Cicestrensis, temp. H. 3. Robertus de Loxinton, Clericus constitutus capitalis Justiciarius de Banco. Johannes Briton Episcopus Hereford. Henricus de Stanton, Clericus constitutus fuit capitalis Justic. ad placita. With many others.*

So also *Selden* affirmeth, in his Notes upon *Fleta*. —

Sir *John Eliot* in his Speech in Parliament, confesseth that there are among our Bishops (whose profession I honour (saith he) such as are fit to be made example for all ages, who shine in vertue, and are firm for our Religion, &c. — as *Rushworth* relateth in his Collections pag. 661. If Bishops be so eminent that they shine in vertue, certainly they are fit men to be present in Parliaments: for Parliaments ought to consist of such men, as shine in vertue, as are firm for Religion.

A Learned Knight and Courtier, writing an answer to Sir *Anth. Weldon* his Pamphlet, entituled the Court and Character of King *James* pag. 178. where he speaketh of the preferment of Doctor *Williams* to be Lord Keeper of the great Seal, sheweth, That former ages held it more consonant to reason, to trust the Conscience of the Clergy with the case of the Lay-men, they best knowing a case of Conscience; And anciently the civil Law was always judged by the Ministers of the Church, and the Chancery, and Courts of Equity, in charge of a Divine Minister. So ran that Channel, till Sir *Francis Bacons* Father had it from a Bishop; and now a Bishop had it again from *Bacon*. And had King *James* lived to have effected his desires, the Clergy had fixed firm footing in Courts of Judicature out of the road of Common Law, and this was the true cause of *Williams* Invitation thither.

To prevent many Complaints and Mischiefs, there can be no better way then to follow the Example of Gods own chosen people of *Israel*, where the chief fathers of the priests and Levites were Judges in all Courts, both high and low, sitting together with some chief men of the other Tribes of the Laity, as they are now called. And though our Law be otherwise of late years, and the jurisdiction of Courts divided, yet it was not so anciently, and the King may put some of the Clergy in some places and Courts (at least of Equity) as King *James* did design, if he had lived longer, and that without any prejudice to the Law or Courts of Justice.

CHAP. IV.

Concerning the Honour and Dignity of the Bishops,
in the time of the Saxons, and so continued to
these times.

For the Dignity, Order, and Estimation of the Clergy, they were from the beginning reckoned and accounted equal with the best, as appears by the Laws of divers Kings; as first, of the first Christian King, *Ethelbert*; who in his Laws, doth provide in the first place for their rights and privileges, and what Satisfaction shall be made, for any wrong done to the Church, or Bishops, or Clergy.

Concil. p.
127.
Bede's, 2.
c. 5.

Quicunque res Dei vel Ecclesie abstulerit, duodecima componat solutione.

Episcopi res, undecima solutione.

Sacerdotis res, nona solutione.

Diaconi res, sexta solutione.

Chrici res, tria solutione.

Pax Ecclesie Violata, duplici emendetur solutione.

Valens scilicet tuitionem eis, quos & quorum doctrinam susceperat prestare, saith Bede.

These being the first Laws of our first Christian King of the Saxons, they ought to be revered for their Antiquity, piety, and Christian Justice, in rendering to every man his own due, though some men talk not only of taking away superfluities, but of cutting up both root and branches. *O Tempora! O Mores!*

And afterwards about the time of King *Witred*, there were laws made.

Concil. p.
206.

Quomodo damna & injuria, sacris ordinibus illata sunt compensanda.

And often elsewhere in the Councils many Laws do ordain, what satisfaction shall be given to the Church and Bishops,

Bishops for several offences committed: for then the Bishops had a great part in all fines, and shared in forfeitures and penalties with the King.

Furthermore for point of Honour and Dignity, it appears by the Laws of King *Athelstan*, that every Archbishop was equal to a Duke of a Province. Every Bishop to an Earl and so esteemed in their valuations. *Vide K. Athelstani Regis apud Lambardum p. 71. & Concil Britannica pag. 405. cap. 13. de Weregeldis. 1. capitulum estimationibus.*

The Title of *Baron* was not then known or used among the Saxons, but they called the Nobility *Thanes*. *Vide K. Ina pag. 187. Sect. 9.* and the Bishops were equal or rather superiour to the *Thanes Major*, and the priest to the *Thanes minor*. The Bishop and Earl are valued at eight thousand *Théynses*.

Messe-Theynes, and *Worald-Theynes*; id est, *Presbyteri secularis Thani iurandum in Anglorum lege reputatur aequale sacrum, cum Sacerdos Thani rectitudine dignus est.*

The Priest was then accounted equal to a Knight, or Lord of the Town, and was commonly styled by the name of Sir, as a Knight was, though now it be decided and out of use.

Out of these Laws, and some others, doth the learned Antiquary, who is so well versed in the Antiquities and Monuments of our Laws and Kingdome, fully set down the ancient dignity and order of the Clergy.

— *Magno sane in honore fuit Universus clerus, cum apud Populum, & Procures; tum apud ipsos Reges Anglia Saxonicos; nec precaria hoc quidem concessione, sed ipsis confirmatum legibus. Sacerdos ad altare Celebrans minori Thano (i. e. Villa Domini atque militi) equiparabatur, in censu capitis pariter estimatus pariterque alias honorandus, quia Thani rectitudine dignus est. Inquit Lex, Abbas sine Canobiarcha inter Thanos majores (quos Barones Regis appellarunt posteri) primicerius fuit: Episcopus similiter inter Comites ipsos majores, qui integro fruebantur comitatu, juribusque Comitibus: Archiepiscopus Ducis & satrapa amplissima Provincia pluribus gaudenti comitatibus prescribatur: Ut & ceteri omnes Ecclesiastici comparibus suis omnibus*

H. Edw. Confessor.

c. 3. Decanus Episcopi reliquas decem partes habeat.

K. Athelstani. pag. 406.

Epist. ad Regem. Tum in vita tum in favore Concilii. Thansum. pag. 325.

bus secularibus: Amplectebantur Reges universam elegans latinitate frontem, & ex eo semper sibi legebant primos a consiliis, primos ad officia Reipublica obsequenda. Quippe sub his seculis apud ipsos solum erat literarum clavis & scientia, (dum militia prorsus indulgerent laici): factumque est interea, ut eos sacerdotis oraculum esset plebis, & Episcopi oraculum Regis, & Reipub. Primiigitur sedebant in omnibus Regni comitiis & tribunalibus Episcopi in Regali quidem palatio, cum Regni magnatibus, in comitatu una cum comite; & Justiciario comitatus, in Turno Vicecomitis cum Viceomite; & in Hundredo cum Domino Hundredi: sic ut in promovenda justitia, usquequaque gladius gladium adjuvaret; & nihil inconsulto sacerdote, (qui velut saburra in navi fuit) ageretur. Mutavit priscam hanc consuetudinem K. Edw. confes. c. 3. Gulielmus primus, — &c. —

After the Conquest William the first divided the Ecclesiastical Courts from the secular, not with a purpose to diminish the Ecclesiastical authority. — Imo jurejurando confirmavit leges sanctæ matris Ecclesiæ, quoniam per eam, Rex & Regnum solidum habent subsistendi firmamentum.

Yet the Bishops and Clergy do not now expect, or desire to enjoy their ancient splendor, amplitude, and dignities, seeing the greatnesse of their Revenue which should uphold the dignity is long since taken away.

So that well might Bishop Latimer in his Sermon before King Edward say, *We of the Clergy have had too much, but that is taken away, and now we have too little.* For there was no lesse in the whole taken away from them, then many hundred thousands sterling, too incredible to be here briefly expressed. I will only mention one, for example the Arch-bishoprick of York, from which was taken 72. manors and Lordships at one instant, by one of the last statutes of Hen. 8. and the like happened to Canterbury, London, Lincoln, and all the rest, which me thinks should be enough to satisfy, that men should not go about to strip them of these poor pittances that are left unto them, being but small fragments, in comparison of their ancient patrimony, which the liberality and piety of the primitive times had conferred on them, when Charity and Piety was fervent, and abounded with good works of all kinds; insomuch that they

they thought no honour or respect too much to be given to the Clergy, especially to the reverend Fathers and Bishops of the prime order.

From what hath been said, it is manifest that the Bishops were equal to the greatest persons and estates of the Kingdom, and had their votes and suffrages, for making laws and Constitutions for the first 500. years before the Conquest. Whereby it appears, that it is a very rash and ignorant assertion of the Examiner Dr. Burgess.

That Bishops at first were but casually mounted to that height of pag. 42. extent and power, by William the Conquerour, the more to endear and oblige them.

And that it is onely of Grace that Bishops were first allowed pag. 43. place in Parliament. And that they crept in by favour to serve a pag. 44. Conquerour's turn, and can derive no higher for sitting (as now they do) in the House of Peers; then an Act of Parliament if so high.

Whereby it is manifest by all the Laws of the Saxon Kings, both in the edition of Lambard and of the English Councils by Sir Henry Spelman, that the Bishops were the principal men in all ages for ordaining of Laws and Consultations, in all the great Assemblies of the Kingdom then in use.

And when matters in question, were only Ecclesiastical concerning the Church and Religion, the Clergy sat by themselves, but when there was any thing to be given and confirmed to the Church, then the Kings and Nobles did afford their presence and assistance, as appears by divers Councils.

Vide Concil. Gloucestriensia. pag. 230.

CHAP. V.

Concerning Barons and the Title thereof, and how the Bishops became Barons, being no addition of Honour to them, but enforced upon them by the Conquerour, and since continued to this day.

AS for the Title and Original of Barons, and the old Signification of the Word; *Selden* in his *Titles of Honour*. 2. part. cap. 7. Especially *Sir Henry Spelman* in his learned Glossary — upon the word *Baro* hath so accurately shewed divers particulars, that I need not here repeat them. But touching the Title and Name, as it is now commonly used, I will say something as it is now understood, it came among us since the Conquest, as the *Glossary* sheweth pag. 81. *Ad Anglos pervenisse videtur vocabulum Baro, vel cum ipsi Normannis, vel cum Edwardus Confessor, anras moresque imbibisset Normannicos* — *Huntingtoniensis avi sui vocabulum usurpans, Histor. lib. 5. Adalwaldum, (qui occisus est, An. Dom. 903) Baronem Regis Edwardi senioris vocat; sed Author antiquior Florentius Wigorniensis, eundem Ministrum Regis appellat, quo etiam vocabulo scriptores ipsi Saxonici passim usi sunt.* So in the Saxon Councils, and Charters, divers great men who were no less than *Thanes*, do stile and subscribe themselves *Ministros Regis*, as in the Charter of *Edgar* p. 486.

Ego Oswald minister confirmavi.

Ego Elfwarde minister corroboravi.

And the like frequently occur: These being the same in degree and substance as *Barons* are now, whereof the Learned Glossary maketh three sorts. *Hodiernos itaque nostros Barones è triplici fonte triplices faciamus.*

I. *Feodales,*

1. Feudales, seu prescriptios qui a priscis feodalibus Baronibus oriundi, suam hodie prescriptione tuerentur dignitatem.
2. Evocatos, seu rescriptios, qui brevi Regis ad Parliamentum evocantur.
3. Diplomaticos, qui Regis Diplomate hoc fastigium ascendunt. Feodalium originem inter eos collocavero, quibus Willielmus senior Angliam totam dispersit: est de se tenendam, quorumque nomina in Domesdei paginis recognovit.

Rescriptios ab avo Regum Johannis & Henrici tertii capite extulisse censeo.

Diplomaticos initium sumpsisse perhibent sub Richardo secundo, qui anno Regni sui 8. (i. Christi 1387) Johannem Beauchamp de Hall in Baronem de Kinderminster suo evisis diplomate.

Now the Bishops may be reckoned both as Feudal Barons in regard of their estates and Baronies annexed to their Bishopricks: and also they are *Evocati* summoned by Writ as Barons; and principal persons by the Kings to come unto Parliaments; and also they are created by Patent, which is presented to the Arch-bishop at their consecration.

But all the Feudal Barons were not summoned to Parliaments: *Quorum ingens erat multitudo, qua plus minus 30000. nullo recto convocari poterat.*

William the Conquerour brought in Tenures, inforcing all men of estates to hold by one Tenure or other; and having made 30 thousand to hold by Barony; yet he never called so many to a Parliament; seeing no Houses could hold so many: and as not all the Feudal Barons were called, so nor all the Abbots or Priors, though they had great estates, but a convenient number, sometimes more and sometimes lesse, as in 49. Hen. 3. Which is the first Parliament upon Record, there were called to Parliament of the Clergy, 102. besides five Deans, saith Spelman, *Glossary pag. 4. Anno. 1. Edw. 2. there were 36. Abbots. Anno. 4. Edw. 3. about 33.* and all other times more or lesse. Yet not so few, as the Examiner relateth out of Sir Edward Cook (*pag. 33.*) who though he were a great Master of law, yet in matters of Antiquity must yeild to the Author of the *Glossary*, whom in private he would call his Tutor, as well he might.

Camden, writing of the Degrees of States in *England*, pag. 170. speaking of the Bishops——by right and custome it appertained to them, as to Peers of the Kingdome, to be with the rest of the Peers personally present at all Parliaments whatsoever, there to consult, to handle, to ordain, decree, and determine in regard of the Baronies, which they hold of the King.

For *William* the first (a thing which the Church-men of that time complained of, but these in the age ensuing counted their greatest honour) ordained Bishopricks and Abbeyes, which held Baronies in pure and perpetual almes, and until that time were free from all secular service, to be under Military or Knights Service, enrolling every Bishoprick and Abbey at his will and pleasure, and appointed how many Soldiers he would have every of them to find for him and his Successours, in the time of Hostility and War. Thus *William* the Conquerour being very rigorous, imposed upon the Bishops and Abbots that held their estates by Barony, great impositions to maintain arms, horses, and furniture for War, enrolling them as he thought them able: but it seems the lesser Abbeyes, that did not hold by that Tenure of Barony, and Parish priests, were not taxed as now they are.

But under the Saxons, when the grievous imposition of *Dangels* was imposed and raised from ten thousand pounds yearly to thirty thousand pounds, and in the year 1012. to forty eight thousand pounds, which was a great sum for that age, when money did not abound as it doth now, yet the Church was then free.

De hoc Dangeld libera & quiesca erat omnis Ecclesia, quia magis in Ecclesia confidebant orationibus, quam armorum defensionibus.

The Prince and People did rely more upon the prayers of the Church, for their deliverance and help, then upon any arms that they could raise, though the necessity of those times was very urgent burdensome and desperate. But there is no such Piety, Mercy, or favour now shewed to the Church or any part of the Clergy: But their Estates, Lands,

Lands, and Revenues are the first that are seised on, sequestred, sold, and disposed, to raise money for the maintenance of War and payment of Souldiers, Gothes and Vandals, Scots and Redbanks, as errand Philistines as ever came out of Gath and Askelon. And all particular ministers of every Parish though they loose not all their Tythes, yet they are taxed in a greater proportion then any Lay men, and many Shires petitioned the Parliament to take away Tithes, and it was debated also in the Rump-Parliament, to take away Tythes, and the Lands of both Universities, to maintain Soldiers and their Charges which are so excessive and outrageous.

Hanc libertatem tenuit Anglorum Ecclesia usque ad tempus VVillielmi junioris ———— &c. ————

VVilliam Rufus was the first that enforced this payment on the Barons and the Clergy. Concessum est ei non lege statutum, neque firmatum, sed habuit necessitatis causa ex unaquaque hyda, quatuor solidos Ecclesia non excepta; quorum dum ferebat collectio, proclamabat Ecclesia libertatem suam reposcens, sed nihil profecit. ————

Thus the Religious and Learned *Spelman* being the greatest Patron and Defender of the Church, and the rights and privileges thereof that this age hath afforded. *Glossar. pag. 200.* on the word *Dangeldam*.

Dr. Burgesse the Examiner might have observed what *Camden* and *Spelman* have writen of the distinction and difference of Barons, both Authors having written long before he had taken the boldnesse to talk so poorly of the Baronies of Bishops, to whom *William* the Conquerour, did not add much to endear them, but imposed many burdens upon them. He restrained them in many things, using the power of a Conquerour, and clipped the Wings of their Temporal power and confined them within the Limits of their Ecclesiastical Jurisdiction; He procured *Stigand* Archbishop of Canterbury, *Agelricus* Bishop of East-Angles, and certain other Bishops and Abbots to be deprived by authority from Rome, and detained them in prison, that strangers might enjoy their places. As *Sir John Hayward* sheweth in his History of the three Norman Kings pag. 87. before

Concil.

time they had part in fines and Mulcts, and power of coyn-
ing money, as appears by the Laws of King *Ashelstan*, *De*
Monetaria, pag. 399. and many other places. But these
were soon after reserved to the Crown as principal prero-
gatives. And till the Council of *Clarendon*, under *Hen. 2.*
the Clergy and Bishops enjoyed many more freedoms and
priviledges, which were abated oftentimes and much di-
minished, about which there was great contention, when
Thomas Becket opposed the King; which the learned *Glossary*
sheweth, pag. 82.

*Episcopi autem Barones dici videntur propter nominis dignita-
tem, non quod vassallagium pendebant aut seculare servitium:*
*Hoc enim nostratibus jugum iniecit omnium primus Willielmus se-
nior Anno 1070 ut in eodem tradit Maub. Paris. Auxit mag-
nopere Willielmus junior ut in Historiis Ducum Normaniae*
& in lib. Edwardi Confess. c. 11. Sed post varias collutationes,
atque robore domum confirmavit Hen. 2. Anno Dom. 1164. in
magno Concilio Clarendonia habito. Praesidente eidem ex ipsius
mandato sacellano suo Johanne de Oxonia, praesentibusque Ar-
chiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus,
& Baronibus Regni in hunc tenorem.

Archiepiscopi & Episcopi & Universae personae Regni, qui de
Rege tenent in capite, habeant possessiones suas de Rege sicut Ba-
roniam, & inde respondeant Justiciariis & ministris Regis &
sicut Ceteri Barones debeant interesse judiciis curiae Regis cum
Baronibus quousque perveniatur ad diminutionem Membrorum, vel
ad mortem.

So that the Bishops, besides that they are called by the
Kings Writ to Parliament, and thereby have the same right
that other Lords have; yet since the Conquest they may be
accounted also among the Fendal Barons. — *Qui nomen*
dignitatemque suam ratione fundi obtinuerint, transferri autem
olim aliquando videatur dignitas cum ipso fundo, ut Episcopi sa-
at fortuitur Baronias seu funderum investitura. Nam ut in-
quit Stamfordus, lib. 3. cap. 62.

Ne ont lieu en Parliament ———— ejus in respect de leur pos-
session, S. L'ancien Barones annexes a leur dignite.

Whereas

Whereas therefore Dr. *Burgesse* saith pag. 45. [albeit the Bishops are usually said to hold of the King *per Baroniam*, yet this happily may be meant rather of the honour affixed to their places, which works it up into a dignity, then of the Land pertaining to them.] This is but foolish nonsense, and gross ignorance; for like Feudal Barons, *sua fortisuntur Baronias sola fundorum investitura.* In like manner I take it, as the Earls of *Arundel*, both formerly and of late, being possessed of the Castle of *Arundel*, Honour and Signory, without other consideration or creation to be an Earl, became Earls of *Arundel*, and the name, State, and Honour of the Earl of *Arundel* peaceably enjoyed, as appeareth by a definitive judgement given in Parliament, as *Cambden* relateth out of the Parliament Rolls of *Hen. 6.* out of which *Cambden* copied out what he saith.

in Suffex
p. 309.

Further Dr. *Burgesse* saith, That the Bishops ought not to have the same legislative power as the Temporal Barons; because these are for their Sons and Heirs; and the others for their Successors only.

X

This Objection is frivolous, because the Bishops being men of great Integrity and Learning, are as careful for the preservation of the publick, wherein standeth the Safety of themselves and their Successors, as any Temporal Lords can be; and perhaps the more, because Temporal Lords do often fall into great want and poverty, selling sometimes the very head of their Baronies, and so oftentimes become very obnoxious; and some of them growing poor have been degraded of their Titles and Honour: Whereof Lord *Cook* giveth an instance 4. *Instit.* pag. 355. How *Nevil* (both Father and Son) Dukes of *Bedford*, were degraded by the King and Parliament, 17. *Edw. 4.* And forso much as it is openly known, that *George Nevil* Duke of *Bedford*, hath not, nor by Inheritance may have, any livelyhood to support the said Name, Estate and Dignity, or any name of estate, as oftentimes it is seen, that when any Lord is called to high estate, and have not Livelyhood convenient to support the same dignity, it induceth great poverty and indigence, and causeth oftentimes great Extortion, Imbroletry, and maintenance to be had, to the great trouble of all such.

such Countries where such estate shall happen to be inhabited; wherefore the King by the advice of his Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, ordaineth, establisheth, and enacteth; that from henceforth the same erection, and making of the same Duke, and all the Names of dignity to the said *George* or to *John Nevil*, be for henceforth void and of none effect, ——— &c. ———

And much more the Lord *Cook* addeth to the same purpose, as also *York* the Herald; pag. 223.

The late Lord *Brook*; who was slain at *Lichfield* when he was ready to batter the Cathedral Church, in his book against Bishops, speaking much against them, and magnifying the Temporal Barons, saith, that though their Honours are derived from the King, yet being once made Lord their Honour is vested in their blood and cannot be taken away; but his Lordship was not learned in Law or Heraldry: He might have taken notice what Lord *Bacon* saith in his Apophthegmes; That blood is no better then the blood of a black Pudding that wants Fat and Suet: Honour is vested in the lands, Mannors, and Revenues, which when they are lost and gone, farewell Honour and Title.

Edward Lord *Cromwell* (Grandchild to him that spoyl'd the Church) sold the head of his Barony, *Onkham* in *Rutland*, and wasting his whole estate left himself as little land in *England*, as his Grandfather left to the Monasteries; by the Feudal Law his Barony is lost.

The last *Edward* Lord *Zouch* who dyed 1. *Caroli*, who was a very great Baron anciently, sold the Head of his Barony *Haringworth* in *Northampton-shire*, and all the Lands which he had, insomuch that *Henry Howard* Earl of *Northampton* said, He was a *Baron sans terre*. Whereupon he bought again some other lands; but having no Sons his Barony his extinct.

Henry Daubeney Earl of *Bridgewater*, created 20. July 30. H. 8. dyed without Issue, Anno Edw. 6; and so his Name, Family and Dignity extinct. This Earl was reduced to that extream poverty, that he had not a servant to wait on him in his last sicknesse, nor means to buy Fire or Candles,

Candles, or to bury him; but all was done for him in Charity of his Sister *Cicely* married to *John Bourchier*, the first of that name Earl of *Bath*.

Many more might be alleadged, but these are enough to shew, that when Lords have lost their Lands and Revenues, then they are not fit men to sit and vote in Parliament, and many there are who though not wholly impoverished, yet so decayed, that they are not so fit as the Bishops to be present in Parliaments, who if they might have enjoyed their ancient Lands and Mannors, were indeed the most able and worthy to be Members in Parliament, both in regard of their great estates, and their Knowledge and Learning in all kinds, far beyond the Temporal Lords.

Lastly, Whereas Dr. *Burgesse* saith, the Bishops are *Barones Eleemosynarii*, and would thence infer that they are but as Arbitrary *Almsmen*, like the poor Knights of *Windfor*, who may be abated or taken away at pleasure.

This is but a spiteful interence upon the bare word *Eleemosyna*, without the true sense of it; For as the Learned Glossary sheweth, *Barones Eleemosynarii apud Stanfordum, & in jure nostro dicuntur, Archiepiscopi, Episcopi, Abbates & Priores, qui pradia sua Ecclesia a Rege tenent per Baroniam: Baronias etiam suas, ex Eleemosyna Regum perhibentur accepisse, licet ipsa pradia aliorum saepe munificentia consequi fuerint;*

And somerimes, not only by the gift of other noble persons, but also themselves did buy and purchase many Mannors and Lands, conferring them on their Successors, and being so bought, they cannot in justice be taken away, as if all had been given by the King and others, as meer Alms.

Lanfrank Arch-bishop of *Canterbury*, bought and recovered 25. Mannors, and left them to his Successors. *Harvey* the first Bishop of *Ely* in the time of *Hen. 7.* bought and left many Mannors to his Successors, and so likewise did many other Bishops, enriching much their Bishopricks, and leaving besides many testimonies of their piety, by building Colledges and Hospitals. And other good works to the benefit of all men: They founded also, almost all

the Colledges in both Universities, to their eternal honor,
so long as Learning shall flourish in this Kingdome.

CHAP. VI.

Concerning the Legislative power and Votes of the Bishops in making Laws. Concerning the Statute 11. H. 7. Whereby Empson and Dudley proceeded, and what great Treasures they brought to the King. Calvin and Beza at Geneva were Members of their Chief Council of State, consisting of 60. and so may Bishops in England be Members in Parliament.

King David appointed Priests and Levites in all Courts of Justice. The Clergy had many priviledges; as Lord Cooke sheweth upon Magna Charta. 2. Instit. pag. 2, 3. Ambition and Covetousnesse of the Presbyterians, the principal cause of all our Troubles.

But concerning the Legislative power, and Votes of Bishops, in making Laws to regulate the Kingdome, and to preserve peace and justice among all sorts of men, there is not to be forgotten an ancient Law of King Athelstan, Concil. pag. 402. c. 11. That worthy King in his Laws hath one.

De Officio Episcopi, & quid pertinet ad Officium eius,

Cap. 11.

Episcopo quæ pertinet omnem rectitudinem promovere, Dei scilicet ac seculi; in propriis debet omnem ordinatam Dei instruere, quidvisque sit agendum, & quid secularibus judicare debeat. Debet enim seculi pacem & concordiam operari cum seculi iudicibus

etiam, qui rectum velle diligunt, & in compellationum adlegationem docere, ne quis alii perperam agat in iurejurando, vel in ardalis.

Nec pati debet aliquam circumventionem injusta mensura, vel injusti ponderis sed convenit ut per Consilium & Testimonium ejus omne legis scitum, & Burgi mensura, & omne pondus, ponderis sit secundum ejus institutum valde rectum.

Ne quis proximum suum seducat pro quo decidas in peccatum. Et semper debes Christianus providere contra omnia qua predicta sunt, & ideo debet se magis de pluribus intrinsecare, ut sciat quovado grex agat, quem ad Dei manum custodire suscepit, ne diabolum eum laniet, nec malum aliquid superseminet, &c.

Christianis omnibus necessarium est, ut rectum diligant, & iniqua condemnent, & saltem sacris ordinibus evelis, justum semper erigant, & prava deponant; Hinc debent Episcopi cum secularibus judicibus interesse judiciis, ne permittant si possint, ut illis omnia, aliqua pravitate germina pullulaverint.

Et sacerdotibus pertinet in sua diocesi, ut ad rectum sedulo quemcumque juvent, nec patiantur si possint, ut Christianum aliquis aliis noceat, non potens impotens, non summum infimo, non praelatus subditis, non dominum hominibus suis vel servis aut liberis molestus existat, & secundum Episcopi dictionem, & per suam mensuram convenit, ut servi testamentales, operantur super omnem servum cui praeest.

Et Rectum est, ut non sit aliqua mensurabilis virga longior quam alia, sed per Episcopi mensuram omnes instituta sint, & exaequata per suam diocesim. Et omne pondus constet secundum dictionem ejus; & si aliquid controversiarum inter sit, discernat Episcopus. And much more is there added.

It is manifest hereby, that by the ancient Laws of this Kingdome, what trust, care, and charge is reposed in the Bishops; not only to direct matters Ecclesiastical; but also to assist, rule, and guide Temporal Affairs; to preserve peace, Justice, and upright dealing, just and true administration of several offices and duties, whereby Religion is much advanced and adorned; when men are honest and upright in their Actions, Contracts, Bargains and civil dealings among themselves. So that they may not clash or oppose Religion: For all publick Statutes, Acts, and Con-

situations, for the most part do in some degree, more or lesse, trench upon Religion, and the furtherance or hinderance thereof: So that they can hardly be duly and rightly enacted and framed, without the advice, counsel, and assistance of Bishops and the Clergy.

Whereas Dr. *Burgeffe* replieth that the Bishops were present but did not Vote; It is a very simple and frivolous answer. For the manner was not then in the time of the Saxons, to vote to and fro as they do now: but at the conclusion and end of every Council, Publick-meeting or Assembly, when their Acts or Constitutions were written; all the Lords present did subscribe their names, and testified thereby their Votes and Consents, and approbation of all that was done. Whereas the Custome is now, in most busineses, to vote and declare themselves by word of mouth, which is more uncertain; and many may be absent, especially some dayes, or out of the way at the time of voting: but by staying till the end of a Session or Parliament, and then subscribing their names; it was a more certain way to testify who were present, and consented to all laws, that are made: and posterity may know whom to thank, if the Statutes be good, or whom to blame, if they be unjust or unreasonable.

As that Act 11. H. 7. c. 3. which gave power to *Empson* and *Dudley*, those two infamous Committee-men, to proceed upon information without Indictment by their discretion, and not *secundum Legem & Consuetudinem Angliae*, as all proceedings ought to be. By virtue of this Statute (which *Cook* hath printed, 4. *Insti. pag. 40. 41.*) *Empson* and *Dudley* did commit upon the Subject unsufferable pressures and oppressions. A good Caveat to Parliaments, to leave all causes to be measured by the golden and streight merwand of the law, and not to the uncertain and crooked cord of Discretion. And much more, to admonish Parliaments, *Cook* doth there add in very earnest manner: but our late long Parliament hath highly offended against all his severe admonitions, and have far exceeded any ill doings of

H.A.H.7. *Empson* and *Dudley*. For as Lord Chancellor *Bacon* saith of them, They kept the half face of Justice in putting up indictments

dictments against many men, but they would not suffer any man to traverse them; and they had Jurors ready that would find any thing for fact or valuation: But now in the proceedings against the Clergy especially, there is not the half face of Justice observed, nor the outside: But only voting upon any information: and upon the Votes of Committees, or Sub-committees, and such like (not of either House) men are cast out, by Sequestration, of their Livings and Freeholds, especially the Clergy are oppressed beyond example of any former age.

All which unjust and horrible proceedings would not have been suffered, if the Bishops had been permitted to enjoy their ancient rights, places, and power in Parliament; they would have protested against it, and declared their dissent, and found means to have hindered such detestable doings, far beyond the wickednesse of *Empson* and *Dudley*.

Empson and *Dudley* did not cast men out of their Houses, Lands, and Estates as is now done by voting: Only they did tamper and trouble men till they could get some money or fines upon the breach of some obsolete Statutes, which they called mitigations, saith *Bacon*: But now mens freeholds and Estates are taken away upon prerences only, and bare informations, without Jurors for Trial or witnesses upon Oath, or any legal proceeding.

Empson and *Dudley* though they offended highly against Law, for which they were severely punished; yet there came some good to the publick by their doing, for they filled the Kings Exchequer with great sums of money, some millions of pounds, as Lord *Cook* sheweth, 4. *Instic.* pag. 198. And Lord *Herbert* in his History pag. 9. Greater sums doubtlesse then any King of this Realm before had in his Coffers, and such as may be thought effectively quadruple to so much in our age.

But our Long Parliament and Committee-men have spent many more millions of money, then can be imagined, more then ever *David* left for the building of the Temple, viz. twenty and three Millions of our money, and a thousand pound: A matter; but for the testimony of

Scripture

Scripture, exceeding all beliefe, saith Sir *Walter Rawleigh*, 2. *Book Cap. 17. Sect. 9.* But our long Parliaments have spent more to pull down Temples; and have raised such a rabble of Sectaries, as are ready to pull down and destroy all the Churches in the Land, and to make spoyl of all the materials and Revenues of them.

Empson and Dudley brought so much money to the Kings Coffers, that King *Hen. 8.* was exceedingly enriched, in-
somuch as *Bacon* saith of him, upon the death of *Hen. 7.*
That there was the fairest morning of a Kingdome, that e-
ver was seen in this land or any other: but by his prodigal
expences, and Sacrilegious doings, there followed the
foulest evening of a Kingdome that ere was known.

Bancroft in his Survey, *cap. 6.* saith, that at *Geneva* they had a cheif Council of threescore, (which is as a Parliament in their Government) and that *Calvin* and *Besa* were Members of that Council, and had vote and voice among them: and why may not a Bishop among us be present in our great Council as well as *Calvin* and *Besa* at *Geneva*, who carried all matters there under their Gowns, as *Dr. Williams* Arch-bishop of *York* saith in his Speech in Parliament, which gave occasion to *Dr. Burgess* to write against him, and impudently to call him the pragmatikal Arch-prelate of *York*: being an eminent person of extraordinary parts, both of Nature and Art, and by reason of his great Honour, being Lord Keeper of the great Seal, and his education in former times, was by many degrees far above *Dr. Burgess*, who never had any honourable place, and was but a little time in the Universitie, never fellow of any Colledge, as is well known, and how poorly and pitifully he had performed his Exercises in *Oxon*, when he took his degree, is very well remembred, and particularly mentioned by the Learned *Dr. Heylin* pag. 182. So *Dr. Burgess* termeth the Learned *Dr. Davenant* Bishop of *Salisbury*, only a speculative Divine: He being an eminent and principal Divine, Head of *Queens Colledge* in *Cambridge* and publick Professor, and chosen by King *James* to be sent to the Synod of *Dort*, and by his Learned works publickly famous and renowned. Such malapert language against such Honourable and emi-

ment Bishops, from an inferior Doctor, is not to be endured, without sharp censures.

Now though some Canons may seem to forbid the Bishops and Clergy to intermeddle with secular affairs, yet that is not absolutely forbidden, but in a qualified sense, as in the famous Council of *Clveshoe*, under *Cuthbert* Archbishop of *Canterbury*, Anno 747. *Can. 1. Negotiis secularibus, plusquam Dei servitiis, quod absit, subditus existit.* To attend secular affairs more then spiritual, and to be wholly imployed and conversant, in Temporal matters, without due regard to the better part: But it will not hinder sacred studies, nor the diligent preaching of the Gospel, that some principal men at convenient times, have a charge and oversight of Temporal affairs, and the carriage of publick businesse; And concerning this see more in Bishop *Davenants* Determinations at *Cambridge*, *Quest. 11. Civilis jurisdictionis iure conceditur personis Ecclesiasticis.*

Thus much might serve for Reply to the Examiner Dr. *Burgesse*, especially upon the fifth reason, which I hold to be the only thing material in the whole Discourse; for the rest will appear to be needlesse if this be clear'd. But if he would look back to former times, he shall find that our Kingdome and Government, followed the ancient manner of Gods own people of *Israel*, whose Ceremonies and Rituals, though they be now abolished, yet the general rules of Justice, Equity, Government and Order, do still remain. And as God made the priesthood then honourable in the Kingdome of *Israel*, and committed a great part of the Government unto them; so doubtlesse now under the Gospel, the priesthood ought to be Honourable, and to have a principal part in the ruling and governing of the Kingdome: To be a Priest in *Israel*, was to be a cheif man, *Levit. 21. 4.* and therefore in all their Courts of Justice the priests and Levites were cheif men in authority for deciding all causes, both in the great Court of *Sanedrim* at *Jerusalem*, (which was a Continuation of the 70. Elders, appointed by God himself *Numb. 11.* and was answerable in authority to our Parliaments, it being the highest Court of Judicature in that Kingdome) and so in the second Court of Judgement

ment as our Saviour calleth it, *Mat.* 5. 22. where there were 23 Judges, whereof 7. were of the Laity, (as we now call them) Elders of the Cities, and every good City consisted of

Families; unto which 7. of the Elders, there were added 14 Priests and Levites, as *Josephus sheweth lib. 4. cap. 8.* where though he seem to say, that the number of the Judges was seven; yet in his next words following be well observed, he sheweth the addition of two priests and Levites, to each of the other Magistrates of the people [*ἐν αὐτῇ δὲ αἰσῶν ἀνδρες δέο ἱερεῖς τε καὶ λείβιται ἐξ ἑκάστης φυλῆς.*] *Nam æχὼν intelligit singulos magistratum gerentes, quibus singulis bini erant additi adfessores periti juris, quos Josephus ἱερεῖς καὶ λείβιται vocat: Septem ergo municipes loci erant iudices, præterea adfessores quatuordecim, qui ex Levitis maxime sumebantur; his supernumerarii accessisse videntur unus & alter.*] So *Grotius in Mat.* 5. 21. and to also the English Translation doth render the place. [In every City or Township, let there be seven Governours such as are approved in vertue, and famous for their Justice; and let each of these Magistrates have two Ministers of the Tribe of Levi.

In this Court of Judgement all manner of causes were heard of Life and Death, whatsoever matters of Controversie within their gates, Ecclesiastical or Temporal; Yet excepting some weighty businesses concerning a whole Tribe, or the high priest, or a false Prophet, which belonged only to the great Council at Jerusalem. Whether also they might appeal, in any doubtful cause, which was too difficult for the inferiour Courts.

Judices in portis cujusque Civitatis jus super causis majoribus reddabant, & in homicidiis lege agere solebant, de quibus agitur, Deutr. 16, 18. & 21, 22. ultimus autem pena erat gladius, quia de homicidiis iuxta cognoscebatur, ut & Moses nos docet & Christus.] *Grotius in Mat.* 5. 21.

When King David was old, and neer his Death, he appointed Salomon to be King after him, and caused a Parliament of all Israel to be assembled, wherein he gathered together all the Princes of Israel, with the Priests and Levites, *1 Chr.* 24. 1, 2, In this great Parliament the priests and Levites

vites were not omitted, nor in any Court of Justice in that Kingdome: For as it is p. 4. There were six thousand of them appointed Officers and Judges throughout the land of *Israel*, which is the thing that now many of our Common people do much dislike, not well induring a few Justices of Peace to be of the Clergy, whereas we have the example of *David*, guided and directed by the Spirit of God, as the Text saith, 1 *Chron.* 28, 12, 13, 19. So disposing and ordering the Levites, that he appointed some for the outward buhnesses over *Israel*, for Officers and Judges; a thousand and seven hundred were Officers of *Israel*, on this side *Jordan*, in all buhnesses of the Lord, and in the service of the King. This Text is very plain to prove that the same man, may be employed in Ecclesiastical matters of the Church, as also in the Kings Service. So pag. 32. *David* appointed two thousand and seven hundred cheif Fathers, to be Rulers over the *Reubenites*, *Gadites*, and the half Tribe of *Manasses*, who were beyond *Jordan*, for every matter pertaining to God, and affairs of the King; and c. 26. 14. *Zecharias* a Levite; is commended for a wise Counsellour. But that now any of the Clergy should be Counsellours, Judges, or Officers, unto Princes, is accounted by some an unlawful thing, or at least not very commendable: Whereas we see by this very law and direction of King *David*, that the Levites might attend buhnesses, belonging to the worship and service of God, and instruction of the people, as also of the publick service and affairs of King and State: So the Divines in their late Annotations on the Bible, do acknowledge that the Levites did study the Judicial and politick Laws, and had power to see the law of God, and injunctions of the King to be observed, and to order divine and humane affairs; 1 *Chron.* 26. 29, 30. 2 *Chron.* 19. 8, 11. So the Learned *Grotius*, *Sicut lex erat una, praeceptis divinis omnis humanique juris, ita apud Hebraeos, penes eosdem erat juris utriusque interpretatio.* Upon *Mal.* 2. 4. and so other Commentaries do affirm, as *Lavater* in cap. 23. *Per Civitates & Provincias judicium Ecclesiastica, & civilia exercentur* ——— and so *Peter Martyr*, in 2. Reg. cap. 11.

Neither

Neither will it hinder the study of Divinity, or care of preaching the Gospel, if some fit men be employed sometimes in the Government of the publick (as to be Justices of the peace) for the well ordering of the publick, and preservation of Peace and Justice will more advance the Gospel, and abundantly countervail some intermission of preaching, which cannot possibly be so continually attended, but that there will be some hinderances, not only by sickness and private businesses of ones Family and Estate, but also by publick meetings, Convocations, Synods, and such general assemblies.

Besides the Common-wealth and Church is a mixt Government and consisteth of all manner of persons, of infinitely several conditions, Trades, and Courses of Life; and seeing the Clergy are mingled among them, and infinitely entangled, especially of late days being made subject, (which they were not formerly) to all temporal laws, Suits, Arrests, Executions, Imprisonments, Impositions, Taxes, Charges, and Subsidies, it is but reasonable that the Clergy should have some of their own Tribe in place of Judicature and Office, to see the inferiour Members defended, and fair carriage shewed to them: *Aristotle saith, lib. 3. Polit. cap. 1. Civis nullare alia magis definitur, quam participatione judicii ac Magistratus.* Whosoever are Citizens in a Kingdome, meaning properly Citizens, and of the better sort, (not Labourers, Porters, Scavengers) they ought to have voice and suffrage, and to be capable of Magistracy and Office, if they be worthy and fit for it by any excellent parts of Learning, Knowledge, and Wisdome: wherein the Clergy have some opportunity to excel others, and often go beyond the ordinary sort of men, that are not bred up in Learning, Arts, and Sciences.

Sir Francis Bacon observeth out of the ancient Roman Law, that there belongs to every Subject, certain common rights and priviledges which cannot be taken away from any of them. 1. *Jus Civitatis.* 2. *Jus Connubii.* 3. *Jus Suffragii.* 4. *Jus Petitionis & Jus Honorum.* These four ordinary rights and freedoms, are by the Customes and original principles of humane Societies, due to all Citizens of quality.

licy. Such as ever the Clergy have been esteemed, and still ought to be, if men will professe themselves to be true Christians indeed; and to honour the Messengers and Ambassadors of our Saviour Christ, whom he hath appointed to instruct and govern his Church and people. The Pope deprived his Clergy of the two former rights, by accounting them separate and exempt from the Common Laws of all Kingdomes, and forbidding marriage to them: And now our zealous professors would deprive our Clergy of the two latter priviledges, the right of voice and suffrage in all principal busineses, and the right of Honour and Office, whereof they would make them incapable, and render them base, and equal only to the inferiour multitude, and scum of the Common-people.

Lord Coke 2. *Instit. cap. 2. pag. 3.* Upon *Magna Charta. Concessimus Deo; quod Ecclesia Anglicana libera sit, & habeat omnia sua jura integra, & libertates suas illesas.* True it is, that Ecclesiastical persons have more and greater Liberties, then any other of the Kings Subjects; wherein to set down all, would take up a whole Volume of it self, and to set no examples, agreeth ill with the office of an expositor: therefore some few examples shall be here expressed. There he putteth down many particulars which are very considerable, and I refer the Reader to him. But in the end he concludeth, that all the liberties of the Clergy are lost or not enjoyed. But why should the Clergy be deprived of so many liberties, rights, and priviledges, being so fully settled upon them, by the fundamental Laws of the Land. We may thank such unworthy fellows, as to please the vulgar people, will be content to see the Clergy stripped of all their rights and liberties, from the first to the last, as it happens in these troublesome times. But the true reason is, because that Dr. Burgess, and such as he is could not obtain the principal dignities and preferments of the Church, that so they might with the preferments, have had the benefit of the priviledges and liberties.

Ambition and Coverousnesse hath always been the bane of the Church: Whereof there are many examples in all ages; as in the beginning of the Jewish Churches. Corab

being

being a Levite of the *Cohathites*, which was the cheif Family of the Levites, as is observed on *Numb. 3. 38.* he took offence (as *S. Iarchis* noteth on *Numb. 16.*) and envied at the preferment of *Elizaphan*, the Son of *Hizziel*, whom *Moses* had made Prince over the Sons of *Cohath. Numb. 3. 30.* When he was of the youngest Brother *Uzziel*: and *Korah* himself was of *Izkar*, elder then he: See *Numb. 3. 29. 30.* But by the Sequel it appeareth that he lift up himself not only against *Elizaphan*, but against *Moses* and *Aaron*, and fought the priesthood also, pag. 10. as *Ainsworth* observeth on *Numb. 16.*

So in the Christian Church, *Atrium* the infamous Heretic was displeased, because he could not obtain the Bishoprick of *Alexandria*, and thought himself as worthy as *Alexander*: and being discontented at his loss of so rich a bishoprick, raised that Heresie which plagued the Church 300. years. So *Atrium* offended because he could not obtain a Bishoprick, took exception against the Dignity of Bishops, As *Epiphanius* sheweth; and many more such examples are obvious in the Ecclesiastical Histories.

And so at this instant of our Troubles, the Presbyterian Divines were offended because they could not obtain the cheifest dignities of the Church. Mr. *Stephen Marshall* a principal Presbyterian, did once petition the King for a Deanry, and at another time for a Bishoprick: Which because he could not obtain as the King told him at *Holdenby*, where he attended upon the Commissioners, therefore he would overthrow all.

Doctor *Twist* was an earnest Suiter for the Deanry of *Salisbury*; which because he could not obtain, nor a Prebend in *Windsor*, which he once desired but failed of it, Mr. *Hales* of *Eaton* Colledge being preferred before him, therefore he was angry and discontented that he must rest and sit down upon his living at *Newberry*.

Doctor *Burgesse*, was one of the same *sort*, he never had a fellowship, or any like place of Continuance in any Colledge, but left the University after he was Master of Arts: yet he got two livings, *St. Magnus* in *Londen*, and *Walsford*, neer *St. Albans*; and then endeavoured to be made the Kings Chaplain,

Centur.
Magdeb.
4.p.371.

Warez. 75.

Prose

Chaplain, which once he obtained, but was shortly put out, by means of the Archbishop: So that he being offended, did only watch for a time, when he might fish in troubled waters; when the late troubles began, he became the cheif Leader of the rascal rabble out of *London*, to cry out for Justice against the Earl of *Strafford*, and against the Bishops, and at length he invaded the Deanry of *Pauls*, being allowed a Stipend of 400. *l.* yearly. And since he hath invaded the House of the Bishop of *Wells*, and much of the Lands: But had he been made Dean of *Pauls*, or Bishop of *Bath and Wells* by King *Charles*, he would never have opposed the Bishops.

The like is known concerning Mr. *Henry Burton*, The original of his discontent is well known: He lost his place at Court, which for a little time he enjoyed under Prince *Charles*, and so losing his hopes of further preferment, he was enraged with envy and revenge against the Bishops, and all Church Government, and at length degraded and punished according to his demerits. Thus Ambition and Covetousnesse, was the true motive of all the Presbyterian fury and rage against the Bishops and Ecclesiastical laws and Courts.

But to return to our former purpose and discourse, why it is fit and reasonable, that some principal men of the Clergy should be in power and some places of Judicature, to preserve the inferiour Clergy from oppression and contempt, whereunto they are now obnoxious. Whereas if the Clergy might now enjoy those ancient priviledges, which are mentioned in Scripture, as *Gen.* 47. of King *Pharaoh*, who in the time of Famine and great extremity, spared the Priests Lands, and allowed them their portion, so that they sold not their Lands: Then men might better talk of applying their Studies, and meddling with no common or worldly buisness. *Ariaxerxes* the Persian King (*Ezra* 7. 24.) commanded that for all the Priests and Levites, and Ministers of the House of God, it should not be lawful to impose Toll, Tribute, or Custome upon them: Whereas now the Clergy being made subject to the most sort of payments, charges, and impositions, in a greater proportion commonly
then

then other men, it is but requisite that some principal men of the Clergy should have voice and suffrage in making the Laws, that are enacted for their Government and Taxations.

Besides the course of Laws and Government is now much altered from what it was in former times, when Holy Fathers spake of wholly applying themselves to prayers and sacred studies, and diligent preaching of the Gospel, as if they were to do nothing else; not so much as to provide bread and necessaries for their Families, for then they lived most part single in Colledges, and Monasteries, and Societies under the Bishops, where all necessary provisions were made by Stewards and Officers, appointed for the purpose; so that their cares in all those respects, were lessened and abated much; that they might apply their studies only, and forsake all worldly business, which now they cannot foregoe, being secular and parochial Ministers, married men, and thereby charged with Children and Families, and also made obnoxious to all Laws, Suits, and Impositions, without any exemptions or priviledges. So that it is but a Monastical, and in part a Popish fancy, to talk so much of applying their studies, and only preaching in the Gospel; for by many a writ and warrant from several Courts of justice, and Constables, they shall be hindered and commanded to attend secular and litigious proceedings, and answer to all Bills of Complaint, Declarations and vexations, that shall hinder their preaching and studies, more then a voluntary employment at fit seasons, in some publick office.

De Rom,
Pontifice.
l. 1. cap. 5.

Further it is but a Popish opinion, that *Regimen Ecclesiasticum est distinctum a politico*. Which Bellarmine maintains (taking it for granted on both sides) only to advance the Papacy above Kings and Princes, and to exempt the Clergy from secular authority. Calvin affirmeth as much, 4. Inst. cap. 11. Sect. 1. *Ecclesia Dei sua quadam spiritali politia indiget, quæ tamen a civili prorsus distincta est, &c.*

But under Correction, I take it to be a great Errour, though now it is the Common Idol of every mans fancy: because that in our Kingdome since the Conquest, but not formerly

as hath been already declared, cap. 2. the Courts of justice are divided, the Temporal from the Ecclesiastical, and so in most other Kingdomes: Which yet I do not think to be the ancient manner, nor to be the best course, though things being settled as now they are; at this present, it is not safe to change much; for in a Kingdom, the Courts of justice which have been long settled, cannot easily be altered without danger and ill consequences. But yet without any alteration of Laws or Courts, the Courts may be furnished with judges of all sorts, some Ecclesiastical persons, as well as any others, for it is against humane nature, and Society to debar the Clergy, and shut them out of all publick places of Trust and judicature: The Issue and event whereof can be no lesse then the disgrace and reproach of the Clergy, and to make them as the *fish of the World, and offscouring of all things.*

Whereas it is well known, that many Doctors of Divinity, are as fit to be justices of peace as any Knights, or Esquires; The Doctors being learned in many kinds, but very few of the Gentlemen eminent for Learning; or if they be, they are such as will be glad to have the Society and Company of Learned Doctors, who are oftentimes skilful in Civil and Common Law, and other parts of good Learning, which do enable them for publick employments.

There is a Discourse about *Puritans*, lately published by a Lawyer, one *Mt. Parker*, wherein he excepts against *Calvin*, and I think not amiss, in that he doth according to the Popish grounds maintain, that Spiritual jurisdiction differs from Temporal, because it proposeth not the same ends, but several, which by several means may be better compassed.

But saith *Parker*: *The Spiritual Magistrate* (as I conceive) can purpose no other end, than which the secular ought to aim at; for either the Prince ought to have no care at all of the honour of God or of the good of men, and that which is the prime end of both, true Religion; or else his ends must be the same which the Prelate aims at, viz. to vindicate Religion by removing or correcting scandalous Offenders: Secondly to preserve the innocent from

from contagion by the separation of open Offenders: Thirdly, To prevent further obduration, or to procure the amendment of such as have transgressed, by wholesome Chastisement. Thus he, and I think not much amiss; the scope and end of both is the same, and as he saith in his Discourse;

Clergymen being as well Citizens of the Common-wealth, as Sons of the Church, and their cases importing as well perturbation of the State, as Annoyance to the Church; there can be but one head which ought to have command over both, and in both. It is manifest also that many cases are partly Temporal and partly Spiritual, that scarce any is so Temporal, but that it relates in some order to Spiritual things: Or any so Spiritual, but that it hath some relation to Temporal things, so that the true Subject of Ecclesiastical and civil Justice cannot rightly be divided.

I demand then why should the Courts be divided, which was done first among us by William the Conquerour: And why should there not be judges partly Spiritual, as well as Temporal in all Courts? As it was anciently among our Ancestors the Saxons; or at least why should not the Supreme Court of justice, which is to give Law to all other inferiour Courts, be well tempered and mingled with all sorts of men, Ecclesiastical and Civil, the most learned, wise and choicest that can be found in the whole Kingdom: Why not Priests and Levites admitted into the number, as well as in the Sanedrim of the Jews, which was equal to our Parliament; and was first instituted by God himself? And I take it there can be no just exception, but that our Christian Kingdoms may most safely follow the general Rules of Policy and Government, which God ordained among his own chosen people, without any imputation of judaism.

Now among them some cheif Fathers of the Priests and Levites, were not only judges and elders in their own Cities, which were allowed them, to the Number of forty eight in the whole, but sate with the Elders of other Cities, and were Judges and Officers over Israel. Yea many things by Gods law, were wholly and cheifly reserved to the Knowledge and Sentence of the Priests. As Leprosie, Jealousie, Inquisition for Murder, Falseness, and such like,

like, (which now among us , for most part belong to the Common-law) in which cases the People and Elders were to consult the Priests and take direction from them.

And so Bertram in his Treatise *De Politia Judaica* cap. 9. doth make it manifest. ——— *Provsus est extra Controversiam iudices municipales cuiusque Civitatis ut vocantur, seniores fuisse Chiliarchos, Centuriones, quinquagenarios, & decuriones tot quot esse poterant in quaque Civitate, ita ut ex illis Levita quidam in praefectos assumerentur, si modo in ea aliqui erant Levitae; sin minus, ex proxima urbe Levitis assignata advocabuntur.*

And again in his Cap. 10. David in Civilis politia, dicitur ex Levitis destinasse iudices & praefectos sexies mille. Ex Levitis iudices & praefecti assumpti sunt, hac ratione, ut primum essent ex Levitis quidam, qui Adsores essent Judicum, Ordinariorum, & Municipalium, qui seniores dicebantur: Qui & aliquando de plano, (ut vulgo loquuntur) iudicarent, de rebus levitibus, quales erant pecuniariae; vel soli, vel assumpto uno aliquo ex loci vel Urbis senioribus: Deinde ut essent etiam quidam alii qui iudicatas res exequerentur. Vel certe quod verisimilius est, qui assessores erant iudicum ordinariorum, qui ut ipsi de rebus pecuniariis cognoscerent, & iudicarent ipsamque rem iudicatam exequerentur, ——— &c. —

Ex eadem familia adhibiti sunt ad regendam & ad Civilem politiam gubernandam: Ita tamen ut nulla esset, utriusque politica confusio & permixtio. Et cap. 11. Ad utrumque iudicium (tam civile, quam Ecclesiasticum) adhibiti sunt Levitae in praefectos, eodem videlicet modo, quo eos ad id muneris designaverat David, ——— &c.

Thus and much more to this purpose, Bertram doth often throughout his Book, deliver his judgement, that the priests and Levites were Judges in the civil Courts of Justice, and not only in the Ecclesiastical.

To this Siganus agreeth, lib. 6. *Repub. Hebraeorum* cap. 7. speaking of the *Sanhedrim*.

In iure hoc Concilium Rex cum principibus populi, ac septuaginta senioribus populi, & Pontifex cum principibus sacerdotum & scribis, id est, legis doctoribus, ut perspicere liquet ex Evangeliiis, ubi agitur de iudicio Christi: Vocati autem principes

pag. 19.

populi, duodecim princeps tribuum, qui Regi assidebant. Quare Joseph. ab Arimath. Senator sive decurio nobilis idem Concilio particeps fuit; siquidem scriptum est, ipsum cum ceteris assensum damnationi Christi non prabuisse. Principes autem sacerdotum dico illos, qui vicenis quaternis sacerdotum classibus seu vicibus, singuli singulis praeant. Scribae vero ipsos legis Doctores, quos Prophetas Josephus vocavit. It is manifest hereby, and by the reasons alledged already in cap. 2. that is a gross error of Doctor Burgesse, who affirmeth that in Numb. 11. There is no foot-step appears that the Priests were any of the 70. Elders appointed by Moses.

Now seeing David appointed no lesse then six thousand Levites for the outward businesses, it could not be, but that many of them were employed in their secular and civil affairs; whereas now there is not one hundred of the Clergy imployed throughout our whole Kingdome, there being not above two or three Justices of peace in a whole Shire. But their presence and assistance at publick meetings of Justices, as at the Assises and Quarter-sessions, and other occasions, is very necessary to the rest of the inferior Clergy, who wil otherwise be crushed and trampled on, in many businesses, debates and contentions that do happen continually, from the perverse and obstinate party of the Laity: For, *Laici semper sunt infesti Clericis*, is a true saying in the Common Law.

Canon

The Priests, the Sons of Levi (saith God) shall come neer, or forth (out of the Cities where they were placed in every Tribe) and by their word shall all strife and plague be tryed. Remembring alwayes that doubtful and weighty matters were reserved to the great Council of Priests and Judges that sate in the place, which the Lord did chuse for the Ark to rest in, as, *Deut. 17. 8. 9.* — &c. If there come a matter too hard for thee in judgement between blood and blood, cause and cause, plague and plague of matters in question, within thy gates, thou shalt arise and go up to the place, which the Lord thy God shall chuse, and shalt repair unto the Priests and Levites.

This Council or Senate of the Elders residing at Jerusalem, in Jehosaphat's time, (who no doubt did not intringe, but

but rather observe the Tenour of the Law) consisted of Levites and of Priests, and of the heads of the Families of Israel. And had *Amazias* the high priest their over them in all matters of the Lord, as *Zebediah*, a Ruler of the House of *Judah*, their for all the Kings affairs, and was a Combrance of the 70. Elders, which God adjoynd unto *Moses*, and bare the burden of the people with him: And this Court cannot be better resembled among us, then to our Parliament; for there was but one Council of that nature in the whole Land of *Jury*, and that consisting of some of the cheifest of every Tribe; and they not only debated and concluded the highest affairs of that Realm, as War, peace; appeals from all inferiour Courts, punishments of whole Cities and Tribes, and such like, but also ruled and rectified all cases omitted, or doubted in *Moses* Law; and were obeyed throughout the Land, upon pain of losing goods or life, or being for ever excluded from the people of God, as they pronounced or prescribed. Thus the reverend and Learned Bishop *Bisson* in his perpetual Government, cap. 4.

Besides in every City there were private and peculiar Rulers, (21. in number as *Josephus* saith) and also to every Magistracy in those Cities, there was allotted two of the Tribe of *Levi* for assistance; as *Josephus* witnesseth: and if those could not determine the business, then they did appeal to the great Council. And so *Grotius* sheweth most accurately, upon *Mat. 5. 27.* Now God appointed these offices and dignities and power of Judicature to the Priests and Levites; besides their attendance upon Gods service; and the Course of every Priest and Levite, was but one Week in half a year, to attend at the Temple; as *Josephus* and *Sealsiger*, and *Sellianus* doth shew, with other accurate Chronologers; so that beside their attendance upon Gods Service, they had time and leisure enough to be helpful in the Government of the Kingdome. Yea sometimes the principal Judges were chosen out of the Tribe of *Levi*, as at the beginning of their Common-wealth, *Moses* himself of that Tribe the greatest prophet & prince that ever was among them, So after in succeeding times, *Ely* the high

Priest, was made Judge in his time : So also *Samuel* a *Levite* was cheif Judge in *Israel*, as *1. Sam. 7. 15.* who judged *Israel* all the dayes of his life : And he went from year to year in circuit to *Bethell*, and *Gilgal*, and *Mispeh*, and judged *Israel* in all those places, much alike as our judges do go their Circuits every year throughout the Land. *p. 17.* And his return was to *Ramah*, for there was his House, and there he judged *Israel*, and there he built an Altar to the Lord. And his three Sons after him, *Samuel* made them (being *Levites*) Judges over *Israel*, though they did not walk in their Fathers ways, but turned aside after lucre, and took bribes and perverted judgement.

After the Captivity of *Babylon*, for some 500. years till the coming of *Christ*, the Priesthood had the greatest stroke in the Government : As *Ezra* the Priest and brother to *Jesus* the high priest that returned from the Captivity, whose memory is honourable among the righteous, as *Learned Montague* sheweth against *Selden. pag. 377.* He had Commission from the Persian Emperor *Artaxerxes*, to govern and order the Controversie, *Ezra. 7. 12, 25.* and gave him authority to set Magistrates and judges, which might judge the people, and power to execute the laws of God and the King. *pag. 26.* and to inflict punishments unto death, or banishment, or to confiscation of goods or imprisonment. So that *Ezra* had great authority and full power given him, and his worthy Acts are there recorded.

So afterwards under the *Machabees*, who were priests, the Common-wealth was governed, and it pleased God to make that Family victorious as any other almost that ever governed that Common-wealth, as *Sir Walter Raleigh* sheweth. *lib. 2. cap. 15.*

If thus it were anciently among the chosen people of God, why then should any in these dayes be so much displeased, that a Bishop or a Clergy man, should have any part in the Government of the Common-wealth, or assistance of Government, for the better Ordering and Directing of judgment, or to be Counsellor to a Prince; as *Zeebariah* the Levite was a wise Counsellor, *1 Chron. 26. 14.* *Benajah* a Priest, son of *Jehojadah*, was one of *David's* twelve

twelve Captaines: being the third Captain of the host 1 Chron. 27. 5. for a moneth, and in his Course consisting of 2400, was his son *Amizabad*: *Benajab* also was of *David's* principal Worthies, having the name among the three Mighties, 1 Chron. 11. 22. He was also Captain of the guard to *David*, and after the death of *Joab*, he was made Lord General of the Host, by King *Solomon*, in *Joab's* room, 1 Kings 22. 35.

So, and much rather may a Clergy men now be an Officer, in great place, or a Justice of Peace in the Country, who handles Matters of Equity and good Conscience, for preserving of publick peace, order and quietness among neighbours, wherein happen many businesses that depend much upon the Conscience of a Justice, and the Equitable rules of Scripture, whereof Clergy men are the most competent interpreters: As also many Causes happen touching the Estates and persons of the Clergy, who have little reason to be subject onely to secular Judges, without some of their own tribe on the bench to see fair carriage and indifferent dealing.

But for matters of Religion, concerning God and his Worship, and difficult points of Divinity, the Clergy then were, and so ought now to be the principal men to be employed; as may clearly appear by the doings of *K. David*, about removing of the Ark to the place that he had provided for it: upon which text, King *James* hath written a very pious and excellent Meditation. Pag. 81. upon the 1 Chron. 15. Some of those words are fit to be here recited.

When the Ark of God, (wherunto they sought not in the dayes of *Saul*) had continued long at *Kiriath-jearim*, 2 Sam. 6. *David* out of his Zeal and Piety was moved to prepare a Tent for it, in the City of *David*; and when he began to remove it, he called a great assembly of principal Men, but did not make that use of the Priests and Levites as he ought to have done, and therefore the Action prospered not; but there happened a terrible judgment upon *Uzzah*, which hindered the progresse of the good work, and *David* was afraid of God that day, saying: *How shall I bring the Ark of God home to me? so the Ark rested in the House*

House of Obed-Edom, But afterwards upon better advice, David perceived his Errour, and confesseth it. Cap. 15. 12, 13. Speaking to the Chief of the Priests and Levites: *Sanctify your selves, both ye, and your brethren, that ye may bring up the Ark of the Lord God. For because you did it not at the first, the Lord God made a breach upon us, for we sought him not after the due order.*

1 Chron.
11. 26.

This was a great and a godly work that was then intended, and therefore King David called a great Assembly about it. 1. Of the Elders of Israel. 2. Of the Captaines of thousands, and hundreds, whose Names and Praises are recorded. 3. The Priests and Levites. *Who did it not at the first.* But now upon better advice, King David assembled at first the Children of Aaron and the Levites. v. 4. So that men of all Estates, were now present in this godly work: This is to be marked well of Princes, and of all those of any high Calling or Degree that have to do in Gods Cause: David doth nothing in matters pertaining to God without the presence and especial Concurrence of Gods Ministers, appointed to be ipiritual rulers in Gods Church: And at the first meant to convey the same Ark to Jerusalem, finding their absence and want of their Counsel hurtful; therefore he saith to them *Ye are the Chief Fathers of the Levites, because ye did it not at the first.* Thus saith King James of blessed memory: but now there is a generation of men, who do not think the Clergy necessary Men to be consulted: that will interpret Scriptures, remove the Ark of God (as it were) and do things without the presence, vote, and suffrage of the Chief Fathers of the Levites: which how it agreeth with this pious Example of King David, and King James's Meditations upon it, I leave to be Considered.

CHAP.

CHAP. VII.

In the first frame of our English Common-wealth, the Bishops in every Diocess, were the principal Judges. The Charter of William the Conquerour, for the dividing the Courts: The Statute of Circumspecte agatis 13. Ed. 1. and Articuli Cleri. 9 Ed. 2. appointing what Cause shall belong to the Ecclesiastical Courts.

THe first frame of our English Common-wealth was so settled and ordered by the Saxon Kings, when once they became Christians, That the Bishop of the Diocess, together with the Aldermen of the Countrey (and so their Depuries in inferior Courts under them) should be equal Judges, together upon the same Bench, in the same Courts, and there determine all Causes: in the forenoon Church-matters, and in the afternoon secular business: as *Selden* sheweth in his notes upon *Eadmer. p. 166.* and *Bishop Jewel* in part observes in his Defence of the Apology, *Part 6. p. 522.* This Course continued till *William the Conquerour*, and perhaps it had been very happy for our Kingdome, if the frame of our Laws and Courts had so still continued joynd together: for many reasons that I will not now further insist upon.

Gulielmus primus, sacrum à Civili discriminavit forum, etenim florente Saxonum imperio, multas in jure dicundo voluit tradabant operas, atque eodem utebantur his quotannis fore Diocesanos Episcopos simul & provincia Praeses, seu vice-Comites: quem & Sheriffe nunc dicimus, & interdum Ealderman nominabant, &c.

The Conquerour first separated the Temporal Courts from the Ecclesiastical: yet not diminishing the authority of the Churches Jurisdiction, which by his oath he confirmed and promised to preserve: affirming *Quod per Ec-*

Proem
Cul. 1.

Glossar.
p. 315.
Lambar.
p. 80.

Ecclesiam Rex & regnum, solidum habent subsistendi fundamentum. So that he subverted rather Ecclesiastical power and jurisdiction; but as formerly in the County, or in the Hundred, so now in the Bishops Court all Ecclesiastical Causes were heard and determined. For the old manner, the Laws of King Edgar do shew it. *Cap. 5. Interfit unusquisq; Hundredi Gemoto, ut superius est prescriptum, & habeantur burgemotti tres, quotannis duo vero scire gemotti: de istis adfanto loci Episcopus & Aldermanus, doceatque alter jus divinum, alter saculare: In Handredo aderant Thani (quos Barones vocant posteri) ut patet e. L. Ethelredi. Cap. 1. ipsiq; iudices Ecclesiastici, cum parvis illius Clero: in Hundredo enim non minus quam in Comitatu, una hac agebantur, quæ ad forum pertinent Ecclesiasticum & quæ ad saculare: donec Gulielmus Conquestor, divisæ jurisdictionibus hanc ab illa separavit.*

For the Division of the Courts, and the Erection of the Ecclesiastical to sit by themselves under the Bishop and Arch-deacon, it appears by the Charter of King William to the Dean and Chapter of Lincoln. And though it be sent in the direction by name to them only, yet it seems, it grew after to be a general law; no otherwise then the Statute of *Circumspecte agatis*, that hath a special reference onely to the Bishop of Norwich: as Lord Coke saith, 2 *Instit.* 487. The Bishop of Norwich is there put but for example, but it extendeth to all the Bishops within the Realm.] And so Selden relateth in his History of Tithes, *Cap. 14. Sect. 1.* and in his *Janus. Lib. 2. Sect. 14.* And in his notes upon *Eadmer. p. 167.* The words of it, as they are recorded are,

Willielmus gratia Dei Rex Anglorum, Comitibus, vice comitibus, & omnibus Francigenis & Anglis, qui in Episcopatu Remigii Episcopi terras habent, salutem. Sciatis vos omnes, & ceteri mei fideles qui in Anglia manent, quod Episcopales leges quæ non bene, nec secundum sanctorum Canonum præcepta, usque ad mea tempora in regno Anglorum fuerunt, Communi Consilio, & Consilio Episcoporum & Abbatum, & omnium principum regni mei, emendandas judicavi. Propterea mando, & regia auctoritate præcipio, ut nullus Episcopus vel Archidiaconus de Legibus Episcopalibus, amplius in Hundret, placita teneant, nec causam quæ ad regimen animarum pertinet, ad iudicium

dicium secularium hominum adducant; sed quicunque secundum Episcopales leges, de quacunque causa, vel culpa, interpellatus fuerit, ad locum quam ad hoc Episcopus elegerit & nominaverit veniat, ibique de causa sua respondeat, & non secundum Hundred, sed secundum Canones, & Episcopales leges rectum Deo & Episcopo suo faciat. Which I the rather transcribe (saith Selden) because also it seems to give the Original of the Bishops consistory, as it sits with us divided from the Hundred or County Court, wherewith in the Saxon times, it was joyned.

And in the same Law it is added further,

Hoc etiam defendo, ut nullus laicus homo de legibus, quæ ad Episcopum pertinent, se intromittat. Thus Selden: Only the words of the Charter are more fully recited out of the Records by another Learned Author. — Si vero aliquis per superbiam elatus, ad justitiam Episcopalem venire voluerit, vocetur semel, & secundo & tertio. Quod si nec ad emendationem venerit, excommunicetur. Et si opus fuerit, ad hoc vindicandum, fortitudo & justitia Regis vel vicecomitis adhibeatur. Ille autem qui vocatus ad justitiam Episcopi venire noluerit, pro unaquaque vocatione legem Episcopalem emendabit. Hoc etiam defendo, & mea autoritate interdico, ne ullus Vicecomes aut prepositus, aut minister Regis, nec aliquis laicus homo de legibus quæ ad Episcopum pertinent, se intromittat: nec aliquis laicus homo alium hominem sine justitia Episcopi ad judicium adducat. Judicium vero in nullum locum portetur nisi in Episcopali sede, aut in illo loco, quem ad hoc Episcopus constituerit.

And the punishment for disobedience to the Ecclesiastical Judges, was much alike as formerly was enacted under the Saxon Kings, as by King *Alfred*; *Si quis Dei rectitudines aliquas deforcior, reddat Lathlre cum Ducis; Witan cum Anglis*: And the same Law is afterwards confirmed and renewed by King *Canutus*, and by other Kings: Whereby it appeareth how before the Conquest, and likewise after, for a long time, the authority and jurisdiction of the Church was maintained and upheld by the settled Laws of the Kingdome. How they had power in their Courts to excommunicate, and further by the help of the King and the

Concil. p.
568. c. 17.

Sheriffe, to proceed against stubborn offenders, and such as opposed or contemned their authority; so that here is the present practise and Law confirmed, by the continual practise of many hundred years.

The Law being thus made by the Conquerour, to separate the Ecclesiastical Court from the Temporal, there followed after in succeeding times Statutes to direct and appoint what causes shall belong to the Bishops Jurisdiction: As the Statute called *Circumspecte agatis* made 13. Edw. 1. and *Articuli Cleri* 9. Edw. 2. which besides others, *Coke* doth expound in the 2. *Instit.* at large pag. 489. 599. So that the Ecclesiastical Laws and Courts being thus settled by ancient Statutes and *Magna Charta*, and besides long use and Custome, the Laws are Fundamental and necessary as well as any part of the Common-law, and cannot be wholly taken away without great injustice, confusion, and great disorder in the Kingdome and Church, as it happen'd most pitifully in these troublesome times: But Parliaments are obliged to maintain the Fundamental Laws of the Land, as they have often professed solemnly in many of their Declarations, Protestations and Remonstrances: But in conclusion they have overthrown all Ecclesiastical Courts and Laws, though never so ancient and Fundamental, and now they would pretend to set up new laws and orders, which they call Presbyterian Government by Lay Elders in every Parish, a fond and foolish project (contrary to the Laws of God and Man) such as they have heard to be at *Geneva*, and some other places beyond Sea, where there are no Lords, Knights, Esquires, or Gentlemen, as with us in *England*: But their new States are popular, without degrees of Honour and distinction of Gentry: They do as their Neighbours at *Strasborough*, and the *Switzers*, of whom *Bodin* saith, lib. 6. c. 4. *Argentineses*, *Casa & prastrata nobilitate, cum imperium populare invasisent, legem communibus suffragiis tulerant, ne quis summos in Civitate Magistratus adipisceretur, nisi a cerdonibus aut coriariis aut id genus sordidis opificibus stirpem traxisset; id enim veteribus Græcis usitatum erat, ut in iis civitatibus qua popularia imperia stabiliere ac tueri vellent, cives omnes, quantum quidem fieri posset, opibus,*

opibus, honoribus, imperiis, ac vite conditione exaequantur: ac si quis prudentia, iustitia, fortitudine, aut ulla virtute ceteris praeincerat ac emineret, hunc ostracismo exterminabant; aut ne virtuti tam aperte bellum indicere viderentur, accusationibus & calumniis opprimebant, atque id unum efficere conabantur, ut singuli Cives, non magis sui similes essent, quam omnes omnino.

They either banished or put to death all their Nobility, and so made themselves a popular state, and further made a law, that no man should bear any publick office among them, but such as would derive their Discent and Pedegree from some base Trade, a Cobler, or Carrier, or such like.

Among such people, Presbyterian Government may be better allowed then in a Kingdome flourishing with all degrees of Honour, *Dukes, Marquesses, Earls, Barons, Knights, &c.* But where only Tradesmen are, chapmen, Pedlars, and Artificers, as they are at *Genova*, there any government in the Church may better be tolerated then in a Monarchy: The Glossary sheweth to that purpose that Tradesmen are base fellows in Heraldry, and among base fellows any base government may serve the turn. *Burgenses & Mercatores sunt sordidum hominum genus; as Tully said Burgenses dum cauponandis mercibus & rei Mechanica navarent, generosa turba (militiam omnino admiranti) despectui erant, adeo ut cum illis nec connubia iungerent, nec Martis aliam experirentur: and so also the Civil law saith, patritii cum Plebeis conjugia ne contrahunto. And in our law it is reputed a disparagement for a Ward in Chivalry (which in old time was as much as to say a Gentleman) to be married to the Daughter of one that dwelt in a Burrough; as *Lambard* sheweth in his perambulation of *Kent*, pag. 304. So the old Statute of *Merton Anno Dom. 1225. cap. 7. De Dominis qui maritaverint illos quos habent in custodia sua, Villanis & aliis, sicut Burgensibus, ubi disparagentur, &c.**

Lord Coke sheweth what causes belong to the Court Christian, viz. Probate of Wills and Testaments, Legacies, Reparation of Churches, and Church-yards, Tyths, Oblations, Mortuaries, and such like duties; Matrimonial

nial causes, degrees of Affinity, or Consanguinity Divorces, and what else belongeth thereunto. And divers other particulars, as appears in divers statutes, and the Books of the Civil Lawyers, as punishment of Adultery, Fornication, and Incontinency, Incest, with many other the like, as Heresies, Schismes, Errors, Abuses, Offences, Contempts, and enormities, as Lord Coke saith, 4. *Instit.* pag. 325. and so also the excellently learned Lawyer Dr. *Cesin*, Dean of the *Arches*, in his Apology for Ecclesiastical Courts and their proceedings against Simony, Usury, Defamation, Sacrilege, Dilapidations, &c.

But now the Presbyterians neglect, and cast off most of these particulars, that there is no punishment for those gross offences and sins, which are not fit to be mentioned among Christians saith the Apostle. There is of late an infinite number of bastards gotten, and the Justices of peace only take care for keeping the Bastard: But there is no punishment or correction for the scandal to Religion; and the vulgar people, go together like Dogs and Bitches, without licence or publication of banns in any parish. The Holy Communion is cast aside and neglected in most parishes most shamefully: The Common-people in most parishes will rather be without the Sacrament, then give one penny to buy Bread and Wine for it, that they are become Atheists in most places; and many Sectaries profess publicly that they will not have Churches or Stone-houses, nor Ministers or Magistrates: And yet the Parliament pretended to reform all according to the word of God in all things; to advance the Throne of Christ, and the Tribunal of Christ, with all his holy ordinances in full force and power, as the Language is of the Presbyterian Ministers.

CHAP. VIII.

Some Observations out of the Civil Law in the Empire, concerning the separation of Courts, and some also out of the ancient Statutes, as Selden hath related them: Lord Cooks Defence of the Bishops being in Parliament, and of the Convocation, and High Commission, and other Ecclesiastical Courts.

AS the Courts Ecclesiastical and Temporal were separated in our Kingdome: so anciently there was some such division in the Empire, yet the Emperour gave great power and authority to the Ecclesiastical Judges, according to that which Justinian saith of Spiritual Causes in the Novell. 123. *si pro Criminali si Ecclesiasticum negotium sit, nullam Communionem habento Civiles Magistratus cum ea disceptatione, sed religiosissimi Episcopi solum imponunt.* If it be an Ecclesiastical Suit, let the Civil Magistrates have nothing to do there with that plea, but let the Bishops end it. Whereby it appears, that prohibitions from the Temporal Courts were not then allowable, which certainly came not into use, till after the Council of Clarendon under Hen. 2. Wherein the Clergy were enforced to appear in the Temporal Courts, one Canon thereof being

Clerici accusati de quacunque re, summoniti a Justiciario Regis, veniant in Curiam responduri ibidem de hoc, unde videbitur Curia Regis, quid ibi sit respondendum; & in Curia Ecclesiastica unde videbitur, quod ibi sit respondendum. Ita quod Regis Justiciarius, mittet in Curiam sancte Ecclesie ad videndum quomodo res ibi tractabitur, & si Clericus vel confessus vel convictus fuerit, non debeat eum de cetero Ecclesia teneri. But touching this and the rest of the Constitutions in that Council

An. 1164.

Math. Paris, doth sharply inveigh against them,

Hanc Recognitionem suam Recordationem de Consuetudinibus & libertatibus inquit, & dignitatibus Deo deestabilibus, Archiepiscopi

episcopi, Episcopi, & clerus, cum Comitibus, Baronibus, & proceribus iuraverunt. And as he addeth,

His itaq; gestis, potestas laica in res & personas Ecclesiasticas, omnia pro libitu, Ecclesiastico jure contempto, tacentibus aut vix murmurantibus Episcopis, potuit quam resistentibus, usurpabat. And this appeareth also by that which Selden relateth in his notes upon Eadmer. pag. 268. that long after, in Edward the second time, the Clergy had so many oppositions and hinderances in their proceedings from the Temporal Courts, that they exhibited a petition in Parliament, wherein they recite the grant and constitution of Will. 2. allowing them their own Courts by themselves, and specify their complaints particularly, which he calleth, *Gravamina Ecclesia Anglicana*, and saith, they are those mentioned in the poem of *Articuli Cleri*. And in this age we have great cause to complain of Prohibitions, but thereof I will say no more now; as for the Temporal Courts, the Conquerour appointed them to follow his Court royal, which Custome continued for many years, till under King John at the instant request of the nobility it was granted ———

Ut Communia placita non sequerentur Curiam (i.e. Regis) sed in loco certo tenerentur. That the Court of Justice for Common Pleas, should not follow the Kings Court Royal, but be held in a place certain, as now commonly they are, in *Westminster-Hall*: Whereas before, the Kings appointed one Grand Lord Chief Justice of all England, who for his authority and power, was a greater officer, both of State and Justice, then any in these last ages; and ever since that the greatness of that office was abated by King Edw. 1. most of those great Justices were Bishops; as Sir Henry Spelman sheweth in his Catalogue of them. *Glossar. pag. 401. Dignitate omnes Reges, proceres; potestate omnes superabat Magistratus; De potestate valde (inter alia) claret; quod quatuor summorum judicum hodiernorum muneribus solus aliquando fungeretur, scilicet, Capitalis Justitiarum Banci Regis, id est, placitorum Coronae, seu criminalium: Capitalis Justitiarum Banci Communis, id est, placitorum Civilium, Capitalis Baronis Scaccarii, hoc est, Curia ad sacrum patrimonium, & fiscum pertinentis, &c.*

Molt

Most of these great Justices were Bishops, as appears by the Catalogue of them, they being the principal men for Knowledge and Learning in those dayes, and had, no doubt, power of voting in all Parliaments, Councils, and assemblies of State.

And so in these later times, Lord Coke sheweth their abilities, and rights. 4. *Instit.* pag. 321. The King is well apprised of all his Judges, which he hath within his realm, as well spiritual as temporal, as Arch-bishops, Bishops, and their officers, Deanes and other Ministers, who have spiritual jurisdiction.

It is declared by the King, the Lords Spiritual and Temporal, and the Commons in full Parliament. That the spiritualty (now being called the English Church) always hath been reputed, and also found of that sort, that both for knowledge, integrity, and sufficiency of number, it hath been alwayes thought, and is also at this hour sufficient and meet of it self, without the intermedling of any exterior person, or persons, to declare and determine of such doubts, and to administer all such offices and duties, as to their rooms spiritual doth appertain.

If so then,
much
more at
this day,
saith Coke.

The Adversaries have made divers objections against our Arch-bishops and Bishops—Ever since saith Coke.—But these pretences being (in truth) but meer Cavils, tending to the scandal of the Clergy (*being one of the greatest States of the realm*, as it is said in the Statute of 8. *Eliz.* cap. 1.) are fully answered by the said Statute, and Provision made by authority of that Parliament for the establishing of the Arch-bishops and Bishops both *in presenti*, & *in futuro*, in their Bishopricks.

By the Statute also of 39 *Eliz.* cap. 8; the Arch-bishops and Bishops, are adjudged lawful, as by the said Act appeareth. And by these two Statutes, these and all other objections against our Bishops, one hath answered, which we have thought good to remember, seeing we are to treat of their jurisdiction, *Ut obstruatur os iniqua loquentium*, saith Lord Coke: Yet the fury and rage of these times have stirred up more anger, which in the
issue.

issue will turn to the Confusion and Dishonour of them that began these wars and broyles against the Church, and Bishops, and fundamental Laws and Statutes, which have so fully asserted their rights and authority.

Thus the Lord *Coke* premiseth, being to treat of the Ecclesiastical Courts and all the jurisdiction belonging to the Clergy, and established by the fundamental Laws of the Land against both Papists and Puritans: and first he beginneth with the Court of Convocation, and of the high Commission in Causes Ecclesiastical, which is absolutely necessary for the suppression of all manner of Errors, Heresies, Schismes, abuses, offences, Contempts, and enormities.

But upon suppression of this Court, by the late long Parliament; there hath broken forth such an infinite number of heresies, schismes, sectaries, and a rascal rabble of factions, as is prodigious to relate, and intolerable to be suffered: For as it is in the Common Law, if there were not Assises and Sessions, to punish Malefactors, Thieves, Culpurges, Offenders, and Rogues of all sorts, the Land would be so Oppressed with the Multitudes of them no man could enjoy his house, or goods, freehold, or life: therefore in *London* they have every moneth a publick sessions to punish, Condemn, and Execute all sorts of Malefactors.

And Corporations in principal Cities have the like authority by Commission, and Patent from the King.

But for the high Commission to punish Offenders against Religion, and the Church, Lord *Coke* saith, pag. 331. That the Kings Majesty hath, and Queen *Elizabeth* had before him, as great and ample Supremacy and jurisdiction Ecclesiastical, as ever King of *England* had before them, and that had justly and rightly pertained to them, by divers other Acts; and by the ancient Laws of *England*, if the said clause of annexation in the said Statute of *1. Eliz.* had never been inserted. That it was a grosse Error, and a notorious offence of *J. Pym*, to affirm as he did in his Speech in Parliament; 4. *Caroli.* That the high Commission was derived from the Parliament. An impudent, ignorant, and seditious speech; which if it had been spoken in the time

time of Henry the eighth, when he recovered his Supremacy from the Pope, the King would quickly have hanged, or burnt him, as he did many in his Reign, upon that point of his Supremacy: For though Parliaments may submit and acknowledge the Kings Supremacy, yet they are not the Dopors or Authors of it, it is originally vested in the Crown, and is a principal Flower thereof; that cannot be denyed or taken away from the King by any of their Votings or Ordinances. And the King may again restore the Court of High Commission, without the help of a Parliament, and appoint such Judges and Commissioners as he shall think fit, without direction or assistance from the House of Commons, as the King doth appoint Judges in all other Courts without their consent, and so may doe still in this Court: Which is absolutely necessary to be done, to suppress the abominable and detestable increase of Sectaries, and Schismaticks, that are now risen up in this *Inter-Regnum* of the Kings Authority.

CHAP. IX.

The Example of the late warrs in Bohemia, Germany, & France, might well have forewarned us in England.

The Godly Covenant of Bohemia, might well have given us Caution to take heed of a Covenant without the Kings consent: The Church Lands taken away formerly, are restored by the Emperour. Grotius his Censure of the Presbyterians for raising Wars.

TO return again to our former matter of the Separation of the Courts, it is to be considered that the Courts being now divided in the Kingdome, many hundred

dred years since, the ancient manner of their union is forgotten and unknown, save only to the Learned, and the scars of the Norman Conquest are so overgrown, that few men are sensible, what reliques of Slavery do still remain upon us, by changing the order of the Courts, the Language of the Law, in great part, with other things that I will not now mention. But being so settled by the Conquerour, and continued by his Successors, the Temporal Courts in process of time grew too powerful for the Ecclesiastical, and by their injunctions and prohibitions, stopt many proceedings, especially after the Council of *Clarendon* under *Hen. 2.* Wherein the power of the Clergy was much abated, and all Ecclesiastical Jurisdiction so crushed, that it continued lame ever after. Though the Clergy by appeals to *Rome*, and the Popes Legats that were often sent hither, did oftentimes help themselves, and much molest their Adversaries. At length under *Hen. 8.* upon his breach with the Pope, the Ecclesiastical Jurisdiction was much abridged and restrained in many particulars, and reduced to a narrow compass, becoming much more subject and obnoxious to the Injunctions, Orders, and prohibitions of all the Temporal Courts, that now I marvel that any should complain and envy at their power and greatness, there being no cause of any value or moment but by one order or other, is drawn from them to the Temporal Courts. And now at last, there want not some that would have all Ecclesiastical authority and jurisdiction, either wholly suppressed from the first Court to the last, or at least so abated, mingled, or changed, that what form or force of Government shall be left remaining, seems very uncertain.

But if Presbyteries and such like Consistories of the foreign and new fangled devising were erected, there will follow great confusion and disorder to the infinite disturbance of peace and quietness in the Kingdome, by alteration of so many laws and customes, and of the Common Law it self, whereby the Kingdome hath been governed so many years, and settled in peace, and all mens estates and Lands held in certain possession. For such great and
universal

universal changes, as will follow upon the dissolution of the Hierarchy; and taking away the Votes of Bishops in Parliament, and other eminent parts of Government, will produce such ill events and troublesome distractions as will not be pacified and composed within the compass of any mans life now living: And what further mischief may follow is uncertain, but surely great troubles are like to ensue, as indeed it hath happened in a most lamentable manner.

BUT if our Nation could have taken warning by the example of the late wars that happened these last 40. years, in *France*, *Germany*, and *Bohemia*, they might have prevented much evil: for there the Wars began by men of the same spirit and humours, as our Presbyterians are among us, and had the same ends and purposes as ours had, which is to take away the Honours, Lands and Revenues of Bishops, and all that belonged to them: The ill success of their ~~wars~~ might well have forewarned us, if there had been men among us, wise, and knowing of the Histories of the present age: When we saw the Flame and Smoke of the *Bohemian* War ascend to heaven in our sight, in most hideous manner: And in the end all the zealous party were utterly undone and confounded, that began the war against the Emperor, to take away the lands of all the Clergy, Bishops, Deans, and Chapters, ——— &c. — Which they account to be the flesh of the Whore of *Babylon*, and the bones of the old Whore, that is, of the Pope: So *Brighman*, and *Parus*, and other zealous men do interpret the Text, *Revel. 17. 16.* All the Lands of the Church, and Revenues, among which they reckon *Tythes*, are the flesh of the Pope, which they must eat and devour, not *Physically*, but *Mystically*, saith *Parus* in his Commentary: For otherwise to eat the flesh of the Pope naturally, being commonly an old man and perhaps full of Diseases, would be no good meat or pleasing Diet: But *mystically* to eat him, that is, to take away the lands, revenues, and riches of the Church will bring in profit and money, that will provide better diet to feed upon then the body and flesh of an old Pope.

Wars

This Sacrilegious appetire and outrageous covetousnesse, to get the lands of the Church and Bishops proved very tragical to *Bohemia*, and most parts of *Germany*: And to shew a little their manner of proceeding, I will digresse a little, because it is so remarkable and fresh a Case within these last 40. years. First therefore, the *Bohemians* in the year 1619. assembled a Parliament without the Emperors Consent: They raised a great army, and put Garrisons also in all the best Towns and Castles: They made a Godly Covenant consisting of an 100. articles just the same in Subtance with our late *Scottish* Covenant; they raised great Taxes, and excise to maintain their armies and garrisons. For two years they prevailed much, and brought in a new King, the *Palgrave*; but at the end of two years, the Emperors great armies came upon them, and fought the great Battle of *Prague* 8. *Novemb.* 1620. The Duke of *Bavaria* came with twelve thousand men, and other great Commanders joyned, as the Count of *Bucquoy*, the Count of *Tilly*, the Count of *Pappenheim*, the Count of *Maradas*. Besides other great Captains of note, having an Army of 40. thousand men, and fought the great Battle neer *Prague*, and prevailed powerfully. Next day the City of *Prague* was surrendered, the *Palgrave* fled away, and of 30. Committee-men in *Prague*, which directed all businesse, twenty seven were apprehended; and the next year after they had been tryed and condemned by the Common-law of the land, for rebellion and raising armies, and Committees, they were put to death upon one stage the same day. Not long after, ten thousand protestant Ministers and Churches were suppressed, and the Ministers banished out of the Kingdome and the provinces annexed, of *Moravia*, *Silesia*, *Lusatia*, and other Countreies of the Emperor. The Covenanters who had seized on the Lands and Revenues of the Bishops and Deans and other societies, by way of Sequestration first (which word they used in one article of their Covenant) were forced to yield up those lands, and to restore them to the former owners: and so also in many other parts of *Germany*, Lands and Houses of the Clergy, which were taken away an hundred years before, were restored to the right owners.

And

And for the Godly Covenant they renounced it, and would have been glad to have enjoyed the favours, which the Emperors formerly permitted them out of his Clemency: But since they raised such a bloody War, he would not suffer them longer to enjoy his former favours. So that the *Bohemians* and most parts of *Germany*, who enjoyed peace and great happiness in all respects, lost all by striving to overthrow the Bishops, and the Ecclesiastical Laws, and to take their Lands.

This miserable event might well have forewarned us in *England*, not to offend in the same kind, as they did, to overthrow Bishops, and all the preferments of the Church, to bring in *Presbyterian* purity, and layelders, and to impose a godly Covenant, which was indeed a wicked combination and Conspiracy, far worse then the Covenant of the low Countries, or that of *France* against *Hen. 3. & Hen. 4.* which had almost confounded all *France*, and was at length the destruction of those two great Kings who were both miserably murdered, and put to death; as our King *Charles* was in most abominable manner, and in many respects, more horribly then those two Kings: for they were stabbed on a sudden by two villains and without the consent of the people, and severe punishments were inflicted upon them speedily: But King *Charles* in a deliberate manner, by men that pretended Justice and upright dealing, who called an high Court of Justice never heard of before, no Judges of the Land consenting, or approving, and so openly in the face of the sun and of all the world, with an high hand, and professed malice, and outrageous fiery zeal, that the Emperor *Maximilian* did justly say, that the Kings of *England* were Kings of Devils. And though the Presbyterians would excuse themselves, that they never intended the Kings destruction, yet that is a frivolous and foolish excuse: for as Sir *Maher Raleigh* saith truly: Our law doth Construe all levying of war without the Kings Commission, and all force raised, to be intended for the Death and Destruction of the Kings, not attending the sequel: and so it is judged upon good reason, for every unlawful and ill action, is supposed to be accompanied with an ill intent.]

Lord

Lord Coke, 3. *Instit.* pag. 12. speaking fully of all kinds and degrees of treason: saith——Preparation by some overt Act, to depose the King, or take the King by force, and strong hand, and to imprison him, until he hath yielded to certain demands; this is a sufficient overt Act, to prove the compassing and imagination of the death of the King: for this upon the matter is to make the King a subject, and to despoile him of his kingly office, of royal government. And so it was resolved by all the Judges of England, *Hill. 1. Jac.* in the Case of the Lord Cobham, Lord Gray, and Walsen, and Clark, seminary Priests: and so it had been resolved by the Justices, *Hill. 43. Eliz.* in the Case of the Earls of Essex, and Southampton, who intended to go to the Court where the Queen was, and to have taken her into their power, and to have removed divers of her Council, and for that end did assemble a multitude of people; this being raised to the end aforesaid, was a sufficient overt Act, for compassing the death of the Queen; and so by woful experience in former times it hath fallen out, in the Cases of King *E. 2. H. 6. & E. 5.* that were taken and imprisoned by their subjects.

The Presbyterians did offend in this kind notoriously, and therefore committed Treason manifestly: for they imprisoned the King in divers places, and at length in a remote place, in the Isle of *Wight*, and what followed after is well known. And all this done by them, that were for the most part Presbyterians, out of their design to compell the King to yeild to their projects, to overthrow the Bishops, and to take their Lands and Revenues, which they account to be the flesh and bones of the whore of *Babylon*, which they must devour, and make the old whore, naked, bare, and desolate.

The excellently learned *Greene*, who did perfectly understand, and discover the practices of the Presbyterians, as appears in many places of his works, hath one remarkable passage in his treatise *de Anti-Christo*, pag. 65. which shall here follow,

— Jam vera scili qui dicuntur Dei intelligendi sunt Reges, liber flagitiosissimum Bonaventuræ, de abdicatione Henr. 3. Gallia

ram Regis, non argumentis tantum, sed & verbis desumptum est; non ex Mariana, aut Sancerillo, sed ex Janio Bruto (quis in se, scit scire, sed quia latere voluit, lateat). & ex viris doctis quidem, ac factionis ejusdem. Dicitur facta congruunt, & hæc est illa mica salis, de qua infra agit Borborica, qua facta est in mare salsum, salens aqua Reges, & omnia circumfusa corrumpens.

Circumferamus oculos per omnem historiam (quod unquam sæculum tot vidit subditorum in principes bella sub Religione titulo? & horum Concitatores ubique reperimus ministri Evangelii, ut quidem se vocant: quod genus hominum in qua pericula, etiam nuper optimos Civitatis Amstelodamensis Magistratus consecere, nihil hic narrari opus est, sapientibus dictum sat est. Laudanda omnino est Regis Christianissimi prudentia & virius, qui suos paræ sententia subditos tam solennia insanire vetuit.

Videat si cui libet, de Presbyteriorum in Reges audacia; librum Jacobi Britanniarum Regis, cui nomen, Donum Regium: videbit enim, ut erat magni iudicis, ea prædixisse, quam cum dolore & horrore conspicimus.

Peter Moulin, who was well versed in the Controversies of the times, and suffered much in the late wars and Combustions of France, when the Protestants did call and hold Parliaments there without the Kings consent, as at Loudan and Rochel 1627. and did garrison the City very strongly against the King: Moulin doth take occasion to speak thereof in his *Anatomic Missa* pag. 246. Where he reckoneth up the wars of Bohemia, and what was done against Hieron of Prague, and John Husse, and the fortunate battels fought by Ziska; in the end he concludeth, and inferreth this: *Hæc non ideo à nobis allata sunt, quod probemus actione Ziska aut tumultu populorum, qui ut persecutiones & martyrium effugiant, arma sumunt adversus domos suos; etenim veritas Evangelica non his stabilitur rationibus & modis; Christus ad crucem post se ferendam nos vocat: Sanguis martyrum plus habet efficaciam & virtutem ad ampliandam Ecclesiam, quam bellorum certamina.*

Thus it appears that Moulin doth not justify the taking up of arms against Princes to reform Religion: He was sensible

ble of the Errors and losses of the Presbyterians in France, in the wars they undertook against their King Lewis. 13. Who in the end suppressed them, took their strong towns, and reduced them to obedience, though he granted them the exercise of their Religion: and how much they lost by the wars, *Moulins*, then lying in France, and seeing both the beginning and end of the war, could not be ignorant.

But the principal reason why the Presbyterians do maintain these desperate opinions of taking up arms, is, that they may pull down the Bishops, and seize upon their revenues and lands, as they have done notoriously of late, both in *Bohemia*, *Germany* and *France* (and now with us;) but they were enforced to regorge, and restore them, as appears fully in the late Histories, which might have forewarned our Puritans———*Si mens non lava fuisset*. The Emperor hath restored not onely in his patrimonial Countries, all the Lands and Estates of the Bishops and Clergy, which the puritans there had seized on of late years, but those also which were taken away an 100 years ago, as in the Duke of *Wittenbergs* Country, whereof there are two volumes published at *Tubing* in *Germany*, 1639.

The Learned *French* Divine, *Chamier*, *Tom. 2. lib. 15. c. 8.* at large disputeth the question. *An tolerari debeat a Christianis Rex infidelis aut hereticus?*

Pontificii dicunt; non licet Christianis tolerare Regem infidelem aut hereticum, si conatur pertrahere subditos ad suam haresin, vel infidelitatem, ——— &c. ———

Hec vero fax est seditionum, seaturigo parricidiorum, lerna malorum, quibus hisce multis annis Anglia tentata est. sed tentata tantum; Deo protegente, regiaque capita presentibus periculis eripiente. At nostra Gallia Theatrum jam ter misere cruentatum duorum proxime Regum sanguine: sic enim ratiocinatus sunt parricida; aut qui parricidia fidas tradiderunt. Non esse tolerandum Christianis regem incommodum Ecclesia, itaque deponendum. Quid si non possit iudicio solenni, tamen ipso facto, qui dignum se exhibuerit depositione, censeri depositum: ac proinde non amplius Regem, sed Tyrannum; ideoque jure occidi, id est tolli, quacunque possit ratione. Quos furor et si nulla alia revinceret ratio, certe tam inhumana sceleratibundis debent hominum

hominum animas abominations repleffe: Viderint homines; Deus certe non dormit.

If *Chamier* had lived to see the murder of King *Charles*, he would have said more then he did *Hifce multis Annis, Anglia tentata est; sed tentata tantum*: God did preserve *Q. Elizabeth* oftentimes, and King *James* from the Gunpowder Treason: Upon both which occasions much hath been written by learned, wise and excellent men both at home and abroad. Against that wicked doctrine of raising arms against Kings to reform Religion. Whereof not only the Papists are guilty, but the Puritans. As *Bancroft* proveth fully against *Knox* and *Buchanan*, *Goodman*, *Gilly*, *Cartwright* and many others — lib. 2. c. 1, 2, 3, 4, of his dangerous positions.

The Puritans in *England* could be content to second King *James* writing against the Pope and Papists for deposing and murdering of Kings: But for their own parts, they account Parliaments to be superiour to all Kings, and therefore maintain that Doctrine of *Calvin*, that the *tres ordines Regni*, the three estates of Parliaments may correct and punish Kings: Which Doctrine *David Pareus* defended: But his books were burned for it at *London* and both Universities. But of late, not only the three estates of the Kingdome, but the third estate, the Commons, the representative of the peopledome may correct and punish Kings: For they have styled themselves *The Supream authority of the Nation*, without the House of Lords, whom they voted to be uselesse and cast them out, and make Statutes, (which they call Acts of Parliament) without the House of Lords, or the Royal assent. Contrary to all the statutes recorded in the Book of Statutes.

4. Instit.
C. 20. Sect.
31.

Bancroft in the very end of his Book of dangerous positions, doth plainly foretell, that the Puritans would never give over their Clamour for Reformation, till they had utterly ruined the whole Kingdome and Church, as now it appears manifestly they have effected their desires in great part. But saith *Bancroft*, there are divers men that will needs hood-wink themselves and stop their Ears, with the Serpent in the Psalm, of purpose, because they would gladly have these things smothered up: He meaneth men in

great place, that were willing to think, that the Puritans were no such dangerous men, as he and others did take them to be, only scrupulous and peevish perhaps about Ceremonies, and therefore were willing to forbear them, and not to censure them sharply: But *Bancroft* doth wisely tell them, that if any such mischeifs (which God forbid) shall happen hereafter, they were sufficiently warned, that both should and might (in good time) have prevented them, and withall it would then be found true, which *Li-vy* saith, *Urgentibus Republicam fati Dei & hominum salutare admonitiones spernantur.*

lib. 2.
Doc. 2.

When the Lord for the sins of the people, is purposed to punish any Country, he blindeth the eyes of the wise, so as they shall either neglect or not perceive those ordinary means for the safety thereof, which very simple men, (or babes in a manner) did easily foresee. Which Judgement I pray God turn far away and long from this and all other true Christian Lands and Kingdoms.

The principal end and project of the Presbyterians was, not only to reform some things amisse, but to pluck up both root and branch of Episcopacy, and all Ecclesiastical laws and Courts, though never so ancient and Fundamental, settled by *Magna Charta*, and many other Fundamental statutes; as *Circumspecte agatis*, 13. *Edw.* 1. *Articuli Cleri*. 9. *Ed.* 2. as *Lord Coke* doth expound them at large 2. *Instum.* and for payment of Tythes and all Duties belonging to the Church, there is both Common Law and Statute Law, as *Lord Coke* sheweth fully, 2. *Instit.* pag. 693. upon the Statute of 18. *Edw.* 3. and 2. *Edw.* 6. and if the Presbyterians would not loose and foregoe Tythes, they must maintain and uphold those statutes: for better Laws for the true payment of Tythes and all Duties cannot be made.

But the Presbyterians account all humane laws but trash of humane Invention; They will reform all according to the word of God in all points. Their position is, *We must do nothing, not so much as take up a rush or a straw, without warrant from the Word of God.* As *Carrwright* affirmed, and *Hooker* confuteeth him accurately, lib. 2. & lib. 3. S. 2. 3. &c. He sheweth that in Scripture there is not a particu-

lar

lar form of Church Government contained. So the learned *Francis Mason* in his Sermon upon 1. Cor. 14. 40. Also the Learned *Dr. Sanderson*, in the Preface to his 14. Sermons, and in his 4. Sermon *ad Clerum*, upon *Rom* 14. besides many others. But though *Hooker* hath written with singular Wisdome, Learning, Godlinesse, and Moderation, yet the Puritans will not read him, as *Dr. Sanderson* complaineth of them.

But what *Bancroft* did foresee, and foretel so fully, is now come to pass in our times, to the great ruin and desolation of the Church: King *James* in the conference at *Hampton Court*, did something to pacifie the Puritans: But in the conclusion he passed them over only with admonitions to be quiet, and accepted their promise to be obedient for the time to come, nor to oppose the Bishops nor the Ecclesiastical Laws, but to behave themselves as dutiful Subjects. And the King with the Lords of his Council, appointed *Bancroft* to write unto all the Bishops to deal moderately with the Puritans, which Letter is extant in print, as full of moderation, and gentle cautions, as possibly could be expected. But that mild proceeding of *Bancroft* and the Bishops, and forbearing to bring them to obedience, and submission by Ecclesiastical censures and other courses, which might have been taken, to put a final end to their wrangling humours, gave the Puritans hope to find the like favour always, in succeeding times, as they did under Arch-bishop *Abbot*, which *Lewis* and forbearance, occasioned the present troubles of these times, in great part.

But the Puritans are an implacable generation; who did only forbear till they had a further opportunity to promote their designs. Which now they have in great part effected and verified the prediction of *Bancroft* and *Hooker*. Who did foresee plainly their restless disposition, and endless contentions, not caring to set fire on the whole Kingdome, as they have done these last 40. years, in *Germany*, *Bohemia*, and *France*, upon the same grounds and principles as our Puritans have done among us.

Being indeed secretly displeased, because the Puritans were not preferred to the best offices and dignities in

Church, and Common-wealth, which now they have invaded by open force and violence, in most outrageous manner; especially the Puritan Ministers without any regard to the Laws of God or man, thrusting themselves into the best preferments, by way of Sequestration; and then getting Acts and Orders to be continued in for their lives, without any respect to the Title of the lawful patrons, whose rights they set aside and suspend as well as the Incumbents, most unjustly. Whereas they are neither by desert for Learning nor education in the Universities, capable of the best preferments, they being only such as have been only poor Lecturers, poor Vicars, poor Schoolmasters, and poor new lights, such as are not qualified as the Statute requires, to enjoy the best Livings of Value. 13. *Elizab. cap. 12.*

CHAP. X.

The Division of the Courts in the Empire, and the manner of proceeding in them by the Bishops and Ecclesiastical Lawyers under them.

NOW because what I have formerly said touching the uniting of the Ecclesiastical and Temporal Courts, may seem strange to many, I desire not to be mistaken, as if I perswaded any innovation or change of settled Laws and Courts of Justice. Which would be a thing of dangerous consequence, that no wise man would advise, but leave all to the wisdom of Superiours, to whom it properly belongeth. Only I will add a few lines touching the ancient form and manner of Government in the Empire, after that the Emperors became Christians, from whom it is likely, the example was taken both among us, and in other Kingdomes.

Touching the division of the Courts Temporal from the Spiritual,

Spiritual, though William the Conquerour began the Separation with us in England, yet there was the like done long before, even by Constantine the great, and first Christian Emperor, who first gave leave to the Christian Bishops, to meet in Councils, and to make Canons to govern the Church. *Canones ut generalium Conciliarum (ut Isidorus ait l. 6. Elym. c. 16.) a temporibus Constantini ceperant, in praecedentibus namq; annis, persecutione fervente, docendarum plebium minime dabatur facultas: Inde Christianitas in diversas haereses scissa est, quia non erat licentia Episcopis in unam conveniendi, nisi tempore supra dicti Imperatoris.* Although ever since the Apostles held their first Council in Jerusalem, *Act. 15.* where they made certain Canons, for the pacification of the Church of Antioch; there were also some provincial Councils held by the Bishops, as the violence of persecutions would permit and suffer them to assemble, and the necessity of the times did require, as may be seen in the first Tome of the Councils, before the great Nicene Council was assembled by Constantine: who being the first Christian Emperor, did greatly labour to settle and advance the dignity of Episcopal government: And because he knew well, that superiority in the Church without power and jurisdiction was to little purpose; Therefore the good Emperor in his Christian Zeal Enacted:

Qua fuit plenaria Concilio-rum forma.

Et si Praecipuum Pontificis seu Episcopi munus est, doctrina verbi populum moderari, tamen quia non omnes dicto audientes sunt, nec ejusmodi persuasione ad disciplinam perducere, vel in officio retinere possunt; & superioritas, in qua sunt Ecclesiastici, imperio & jurisdictione, non satis habet nervorum & auctoritatis; deniq; quoniam Ecclesia mater & cultrix est Justitiae, Ideo Episcopis peculiaris quadam jurisdictio Ecclesiastica, Civili dignior, in personas & causas legibus Imper. est attributa, &c. Ut jus dicant Clericis. — &c.

And lest the Emperor in his Constitution, in these words, *Ut jus dicant Clericis* — should seem to keep short and restrain the Bishops in their Audience, or Consistories, to Clergy men onely, there follows a *praeerea*, in the same title in the Code, *De Episcop. audient.* Not long after this, *praeerea* (saith the Emperor there) *judicant laicos.*

And.

And as before the age of *Constantine*, for want of power in the Church, and the assistance of a Christian magistrate, the Bishops could not restrain, nor suppress the many heresies and schismes; that did arise in those first ages, most of which heresies were such, as were fit to be beaten down by authority, rather then by reason and argument; they being so impious, insolent and blasphemous; so after his time, when he had settled the Bishops authority, yet there being two Courts, where did arise many differences and debates between the Bishops and the secular Judges of that time, touching cognisance of some Causes; *Justinian the Emperor* made a law, like unto that, *Circumspecte agatis* of our King *Ed. 1.* agreeing with it in substance of matter, and arising from the same ground, and pointing to the same end.

Novel. 83
Cap. 10.

The Novel is thus:—*Si delictum sit Ecclesiasticum, et gens castigatione vel multa Ecclesiastica, Deo amabiles Episcopi hoc discernant, nihil communicantibus clarissimis provinciæ Judicibus: Neque enim volumus talia negotia scire omnino Civiles Judices; cum oporteat talia Ecclesiastice examinari, & emendari secundum sacras & divinas regulas, quas etiam sequi nostra non dedignantur leges.*

And further for the greatness of the Bishops authority, it will appear fully, if we look upon the Lawes, as they lye *concatenated* in the same title; where it is said of the Bishops.——*Cum sint ordinarii Judices.*—— And again: *Similes præfæctis prætorio*, and further, *Ordinarie quoq; procedant.* The linked Texts in that title of the Code as they stand cited, do fully shew the greatness of the Bishops Councils and authority, when they are compared and said to be; *Similes præfæctis prætorio*, who were *Illustres Judices*, and so sited in the law; they being indeed the most supreme Judges in the whole Empire; there being but three in that spacious Empire. One in *Asia*; *Præfæctus prætorio Orientis*: Another in *Europe*; *Præfæctus prætorio Ilyrici*: The third in *Africa*; *Præfæctus prætorio legionibus & militia Africana.*

The Civil Magistrates were respectively Judges of the Causes, which the Emperour had translated from the Empire to the Church; which when the Emperour had done, and

and made the Bishops the Judges in the Church; as the *perfecti pratorio* were in the Empire before; it appears hereby fully, how great the authority of the Bishops and their Consistories were, wherein they were assisted by their *vicar-generals* whom we now call Chancellors (as a learned *Civilian* observes) who are no upstarts in the world, rising out of the Bishops Sloath; (as one though otherwise Learned and Eloquent mis-called them) but had their original from the law it self.

Touching whom I will here say something out of the learned *Civilian*; because commonly their place and original is much mistaken by the ignorantly zealous people, who do now abound in the world, and think nothing lawful in government, unless their be express text of Scripture for it; as if no calling, government, or subordination of officers in the Church were lawful, but what is expressly and fully set down in the Scriptures, and no power and authority left in the hands of Christian Kings and Magistrates, to appoint Judges and Officers for Church-discipline, as well as for Civil Judicature.

Therefore to return, as the *perfecti pratorio*, *quia illustres erant, & antestabant ceteris dignitatibus, ideo habebant vicarios suos; in Civilibus causis audiendis & terminandis*. So were the Bishops then, and so are they now: *Illustres iudices & antestabant & antestant ceteris dignitatibus in Ecclesia*. For the law parallels them in the Church with the Chief Judges in the Empire; as well in this, as in the rests of the Parts of their Honour, wherewith the Emperour had honoured them and the Laws honour them at this day. *Justinians* Code hath sundry lawes, some of his own; some of the Emperours before him, even from the times of *Constantine the great*; which shew that Bishops in their Episcopal audience, sat not without their Chancellors; although their Chancellors sat often without the Bishops, whose higher charge in *Christ's Church* permitted not the Bishops presence in Court-Causes ordinarily. And though not under the name and title of Chancellors, nor alwayes vicar generals, officials, or Commissaries, yet they had other titles, but the same offices,

offices. *Ecclesiastici* or *Episcoporum Ecdici*, as much as to say, as Church Lawyers, or Bishops Lawyers, professed *Civilians* and Canonists of that age, the very self same officers and office, that the Bishops vicar-generals then were, and now are, who together with the Bishops then made and do now make, but one and the same Tribunal and Consistory: their Commissions they held from the Bishops, but their Jurisdiction from the Law. And the Cause why the Imperial power furnished the Bishops with these officers was the multitude and variety of Ecclesiastical Causes, more in that age then now, the decision whereof in their Consistories being left to the Bishops, the Emperor doubted might have drawn them from prayers and divine exercises. And a second reason was, that the cause of the cognisance of their Courts, were more likely to have thereby a more speedy, ready, and Judicious trial, before Judges of the same learning, which require a whole man, then before Judges of another, then an higher, requiring (as the Bishops pastoral office doth) a whole man too. And a third reason also may be added, because the Clerks suites and quarrels, should not be divulged, and spread abroad amongst the secular sort, which trenched many times upon the whole profession, especially in capital matters, wherein Princes anciently so much rendered the Clergy, that if a Clerk had committed an offence worthy of death or open shame, whereby he became perpetually infamous, he was not first executed or put to open shame, before he was degraded by the Bishop and his Clergy, and so was executed and put to shame, not as a Clerk, but as a lay malefactor, for the Honour and Dignity of *Priesthood*: It were to be wished this Order were retained still, that Clerks should not passe immediately, when they fall into such excesses, from the Altar to the Halter: but hang or suffer other shame without their *Priesthood*; which Order if it were retained still, or might be restored, would much honour the Church, and no whit derogate from the jurisdiction of the Crown.

The Determination of a Question
made by the right Reverend
John Davenant late Lord
Bishop of Sarum.

QUEST. IIth.

*Civil Jurisdiction is by right granted to
Ecclesiastical persons.*

IT is by the warrant of Christ himself that the Church doth claim and execute a Spiritual Jurisdiction in punishing the offences of her Children: For it can admit an accusation against the inordinate courses of any Christian, and hath power to chastise him, being by sufficient witnessses convicted, either by denying him the Sacraments, or if he continue obstinate in his wickednesse, by an utter exclusion of him from the fellowship and Communion of other Christians. I know none so malignant or unskillful in Ecclesiastical affairs, that will deny this authority, which indeed goes not beyond excommunication, to have been conferred upon Churchmen from the beginning by Divine Institution: But in this our Church, Christian princes have further allowed the Clergy authority, by virtue

M

whereof

whereof they inflict civil punishments, on Hereticks, Schismatics, and other despisers of the Church. As also many sage and grave Divines are in divers places, endowed with the publick power of Justice of peace: Concerning this jurisdiction, let us inquire, whether it may lawfully be granted to Churchmen, which that it may lawfully be done, these following reasons have induced me to beleive.

Argum. 1. It is first to be considered, that both these jurisdictions, tend to the same end of promoting justice, and brideling Vice; but with this difference: That that power, which is meerly Spiritual makes use only of Spiritual means, whereas the weapons of Civil authority be coercive and external, as Imprisonment, Fines, and corporal punishments. Here therefore would I know, why it should be esteemed a wicked and unlawful Act, not suiting to the holy function of a priest, to correct Hereticks, Schismatics, and other like and notorious disturbers of the Christian Common-wealths peace, as well with civil and bodily Chastisements, as those of the Spirit, where power is given so to do, to resist and pull down Vices, Ec.

To resist and pul down Vices by either way is a good and plausible action, and of it self misbecoming no person, though never so holy. The blessed Angels of heaven, deem it a thing in no wise contrary to their Sanctity, in the name and command of God, to smite the prophane with corporal punishments; why then should the Angels of the Church think it not lawful, to adjudge the same Delinquents to any deserved punishments, when by the Decree of their Sovereign Gods Vicegerent here upon earth, it is so determined? For the execution of Civil authority is not of it self repugnant to any person how holy soever, nor disagreeing to the office of priesthood.

Argum. 2. Again the high and absolute power of the giver, persuades me that Church-men do by good right exercise this Jurisdiction. For the King being by Gods appointment, the Fountain of all Civil authority, may without offence derive some rivolets thereof to what persons he shall think fit, whether Lay or Ecclesiastical; I said but some rivolets, because

because (though no Temporal office by Gods Laws are forbidden the Clergy) Wisdome and Equity permit not Kings so far to burthen with State affairs, as wholly to divert them from their spiritual function. This power therefore is so to be intrusted to them, as it may be an ornament or furtherance to the Church-Government, no hinderance or obstacle thereunto. But it is not for every vulgar judgement, or envious piece to determine how far, this Jurisdiction is to be granted to the Clergy, so that it may help and not trouble them in their Ministry. But what Aristotle the Life of Philosophers said, concerning the mean in virtues, that it is to be ordered *ut oportet* *ut solum* as the wise man shall think fit, may be applied to this Temporal Jurisdiction, that it is so far to be communicated to Churchmen, as a judicious and wise prince shall think convenient.

Seeing then that it hath pleased christian Kings to arm the Clergy with some civil jurisdiction, and ordain, that to the greater improvement of Christianity, and casting down of wickednesse, they should exercise both Ecclesiastical and civil jurisdiction, it is most apparently lawful and pious, and plainly necessary by the aid of both Jurisdictions, as with a two-edged sword, to preserve piety and the peace of the Church, and cut off its opposers.

Thirdly, because to many it seems unfitting, the Successours of the Apostles should exercise an authority which the Apostles themselves had nothing to do with: Let us observe the difference of times, and thence gather that this civil Jurisdiction is as expedient and necessary to the Divines of our time, as it was altogether unnecessary and unprofitable to the Apostles. Civil Jurisdiction is by the chief Magistrate to be conferred on those that are subordinate, and according to his Laws to be administered. As long therefore as the Rulers of the earth waged war against the truth of the Gospel, neither could they assign, nor the Apostles without scandal to Christ and the downfall of Religion, have received any temporal power from their hands. But since Kings and their Laws began to subject themselves to Christ, civil Authority by them given to

the Ministers of Christ, might have been a great furtherance to the advancement of the Gospel, and more happy Government of the Church. Furthermore the Apostles and Fathers of the primitive Church were from heaven endowed with an extraordinary and miraculous power, which did more avail to the confirmation of Christians in faith and obedience, than any civil authority: But now the government of the Church is in the hands of ordinary ministers, who being disarmed of that divine and miraculous power, are conveniently guarded with this Temporal and ordinary Jurisdiction.

Lastly, When the Christian Church was in her infancy, piety was more deeply rooted in the breasts of the Disciples, and if they would have resisted the Discipline of the Church, their rebellious minds were soon quelled by the cruelty of persecution, and hourly imminent danger of violent death: But now the Christian world wholly possessed and carried away with pride and Luxury, hath so cleaved aside all respects of piety and modesty, that all the spiritual power of the Clergy and Church-discipline, if not seconded by civil jurisdiction, breeds rather scorn and contempt, than amendment in the malicious remorse of this present age.

Think then what rash and incompetent Judges they are, who from the Apostles, and their days conclude, temporal Authority not requisite to our ordinary ministers.

Argum. 4. A fourth argument may be drawn from Gods own institution, and the most ancient practise of the Church: God himself did annex civil jurisdiction to the office of Priesthood, it is therefore no strange thing, nor against the divine Law, that a Clergy-man should bear sway in temporal affairs. [As appears fully in the former Treatise here before cap. 1. and 2. Where it is shewed, that in all Courts of Justice in Israel, the priests and Levites were the principal Judges, both in the great Council sitting in the Temple at Jerusalem, and in the second Court of Judgement residing in principal Cities.] Eli, Samuel, the Macabees, together with all the High-priests in the Old Testament, did exercise this kind of authority: But why it continued not for some hundred

hundred years after the Gospel, is made evident by reasons above alleadged. But since *Constantine* the great submitted his Imperial Scepter to Christ, you shall in all ages find the godly Bishops and Fathers of the Church administering Civil Jurisdiction by Religious Emperours to them imparted; which if time would serve might be clearly testified, out of Ecclesiastical Histories and Councils, and out of the Emperours own laws; but these are so sufficiently known to the learned, that the citation thereof would prove an unnecessary trouble.

Lastly, let us out of our adversaries own grants and confessions, prove what themselves deny. They grant the Clergy a jurisdiction whereby they can cite before their Courts, Hereticks, Drunkards, Adulterers, and such like infamous persons; admit accusations against them, hear and examine witnesses, and give sentence of excommunication on those that are lawfully convicted. If by vertue of spiritual jurisdiction from Christ received, they can do these things, why shall they not by the accession of secular jurisdiction by the King conferred, imprison the same malefactors, or by such like civil punishments restrain their base incontinencies? This Act of correction is no less warrantable in its own nature then that of excommunication: both being put in execution by just and legitimate authority, neither do corporal punishments, lesse conduce to the Reformation of delinquents, and the Churches good, then those meerly spiritual. Therefore by the allowance of superiour authority, it is no less expedient, that Clergy-men should inflict one kind of chastisement, rather then another. In a word learned *M. Calvin* doth grant that what Controversies soever happened between Christians, to avoid strife and division they were wont to referre them to their Bishops by their judgment to be decided. And *St. Austin* tells us, that he dayly spent some time in secular affairs, either by his sentence determining and settling them, or cutting them off by his interposition. Furthermore he records that *St. Paul* employed Churchmen in such troublesome matters: If private Christians do lawfully commit their civil Controversies to the arbitrement

Argum. 5.

De opere
Monachor.
28.

ment of Bishops, surely Christian Kings may to the same Bishops lawfully commit the judgment of the like Causes; if at the request of private men, it be not unlawful for Church-men to intermeddle with secular businesses; it cannot be unlawful to do the same by the appointment of the King. For as the matter stands, he doth no less interest himself in state affaires, who decides controversies as an *Elect Arbitrator*, then he who decides the same as a *Judge ordained by the Prince*. Let us conclude, that ambitiously to hunt after, or with prejudice to the Function of *Priesthood*, to exercise Civil Jurisdiction from the hand of a King, and to administer the same to the better establishing of the peace and discipline of the Church, is an Act lawful and praise-worthy, most agreeable to the ancient practice of the Church, and no wayes repugnant to the Divine Scriptures.

To this Determination of the learned Bishop *Davenant*, there is nothing replied by Dr. *Burgesse*, but in an insolent manner, he terms him onely a speculative Divine, as if such a famous professor in the university, and a most learned Bishop for twenty years together, who was highly reputed for learning and piety, should be so scornfully neglected by one that never spent seven years in the university, nor ever enjoyed any fellowship, a place of continuance in any Colledge, to gain more then common learning in a trivial way; as appeared fully when he came back to the University to go out Doctor, and would needs take upon him to answer the Divinity Act, which he performed so contemptibly, that he was hissed and scorned publicly by all the Auditors, and accordingly censured by Doctor *Prideaux*, who reprehended him sharply in publick for his ignorance and insufficiency: and some Papists, who are commonly present at such publick Acts among the multitude, hearing him to be so destitute of Latine, Logick, and distinctions upon the state of his questions, publicly were heard to say, — *Alas poor black sheep, what maketh thee here? Whereof I was both an eye, and ear witness.*

But as is formerly affirmed, if some principal men of the

the Clergy be not in places of Authority, and Judicature, and some be not Justices of the Peace in every Shire, the ordinary Clergy will be trampled on by the vulgar people in most vile manner, taxed, and assessed unreasonably by Constables, and Committee-men, and all such officers, as is well-known by many instances, which might be alledged and are commonly known: to say nothing of the insolency of Souldiers, and Quarter-masters, who will be sure when they come to any parish to set first upon the Ministers house, and furnish him with company enough to consume all that he hath in barnes, or buttery, without any mercy, or compassion, which may be easily proved, but that it is a thing notoriously known, past denial; so that the Clergy may complain with the Apostle, *that they are made the stub of the world, and are the offscouring of all things to this day.* And all this done by the Parliament members and officers, who pretended to advance religion, to maintain and uphold Ministry, as well as Magistracy. But the Laws being taken away, or suspended, whereby Ministers should be preserved and maintained, there is risen up such a swarm of Sectaries, Anabaptists, Quakers, and a rascal rabble of others who deny the calling of ministers, and are as ready to oppress them in as violent manner, as those Rebels that did rise in the 5. Rich. 2. Wat Tyler, Jack Straw, Jack Shepherd, Tom Millar, Hob. Carter, and such like fellows, as Cowper relateth them in his *Epitome of Chronicles*; and as John Stow reporteth in the Confession of Jack Straw at his death, *They would have destroyed all Bishops, Monks, Canons, and Parsons, and would have dispatched them all: Only begging Friers should have lived, that might have sufficed for ministering the Sacraments in the whole Realm.*

Poor begging Friers having no good Lands or Revenues, were not the object of the peoples malice; but all rich men, Lords, and Gentlemen, especially Clergy men, should have been made a prey: And so, or worse is the Case of the Clergy in these times; All principal learned Divines, if they have any Estates, are miserably cast out of their houses and livings, Bishops, Deanes, and Doctors, or others of any eminent note are shamefully persecuted: Only

poor Curats, poor Lecturers, poor New-lights, poor School-masters, who are like the begging Friars, are suffered to continue, and yet the Anabaptists, and Quakers, and such like are ready to cashier them, to pull down Churches Steeple-houses and Stone-houses, as they call Churches in derision: but as *Solomon* saith, *there is no new thing under the Sun*: from the beginning of the world to the end it is so, that necessitous men, thieves, and beggars will seise upon the estates of rich men, if they have once power in their hands, and can but lay hold on them.

*The Speech of Doctor WILLIAMS
Lord Arch-bishop of York, in
defence of the Bishops Rights to
Sit and Vote in Parliaments.*

I Shall desire as much water or time, of your Honorable Lordships, as your Lordships can well afford in a Committee, because all that I intend to speak in this business, must be to your Lordships onely, as Resolved for mine own part, to make hereafter no Remonstrance at all to his most excellent Majesty for these several reasons.

1. That I have had occasion of late to know, that our Sovereign (whom God blest and preserve) is, I will not say above other Princes, but above all Christian men, that ever I knew or heard of, a man of most upright, dainty and scrupulous Conscience, and afraid to look upon some actions, which other Princes abroad do usually swallow up and devour: I know (for I have the Monuments in my own Custody) what Oath, or rather oaths, his Majesty hath taken at his Coronation, to preserve all the rights and Liberties of the Church of *England*: And you know very well, that Church-men are never sparing in their Rituals or Ceremonials, to amplify and swell out the Oaths of Prin-

see in that kind: Your Lordships then know right well; that he is sworn at that time to observe punctually the laws of K. Edward. The first Law whereof; as you may see in *Lambard's Sixten Laws*; is to preserve entirely the peace; the possessions, and the rights and priviledges of the Church; And truly I shall never put my Masters Conscience that I find representing and punctillious, when it is not bound up with oaths and protestations, to swallow such Gudgeons; as to sit in self with these doubts and scruples.

2. My second Reason is; that if his Majesty were free from all these Oaths and Protestations; I durst not without some fair invitation from himself, advise his Majesty to run shocks and oppositions against the Votes of both these great Houses of Parliament.

3. And lastly, if I were secretly invired to move his Majesty, to advise upon the passing of this Bill, yet speaking mine own heart and sense; and not binding any of my brethren in this opinion, if I found the major part of this House, to pass this bill without much qualification, I should never have the boldnesse, nor desire to sit any more, in any judicial place in this most honourable House.

And therefore my Honourable Lords, here I have fixt my *Arceps* and dernier resort, being not like to make any further appeal: Which makes me humbly desire your patience to speak for some longer time, then I have accustomed in a Committee: In which length I hope notwithstanding to use a great deal of brevity; Some length in the whole, and much shortnesse in every particular head; which I mean so to distinguish and beat out, that not only your Lordships, but the Lords my brethren may enlarge themselves upon all the particulars; which neither my abilities of body can performe, nor doth my intention nor purpose aim at at this time. I will therefore cast this whole bill into six several heads, wherein I hope to comprehend all that I shall say, or any man else can materially touch upon in this bill.

The first is the Rise or Motive of this Bill; which is *Self*, 1. the duty of men in holy orders: For the words are persons

in holy Orders ought not to intermeddle, ~~And this duty of ministers may be taken in this place two several wayes, either for their duty in point of Divinity; or for their duty in point of Convenience, which we commonly call policy. In regard of either of these duties, it may be conceived that men in holy orders, ought not to intermeddle in secular affairs, &c. And this is the Motive, Rise and Ground of this bill.~~

Sett. 2. The second point are the persons concerned in this bill, which are Arch-bishops, Bishops, Parsons, Vicars, and all other in holy orders.

Sett. 3. The third point contains the things inhibited from this time forward to such persons by this Bill, and they are of several sorts and natures.

First, Freeholds and Rights of such persons, as their suffrages, votes, and legislative power in parliament.

Secondly matters of princely favours, as to Sit in Star-chamber, to be called to the Council-board, to be Justice of peace, &c.

Thirdly, matters of a mixt or concrete nature, that seem to be both Freeholds, and favours of former princes, as the Charters of some of the Bishops, and some of the ancient Cathedrals are conceived to be. And these are all the matters, or things inhibited from those persons in holy orders, by this present bill.

Sett. 4. Fourthly, the manner of this Inhibition, which is of a double nature: first under a high and severe penalty, and secondly under a *Quint* mark, an eternal kind of disability or incapacity laid upon them from enjoying hereafter any of these Freeholds, rights, favours, or Charters of former princes; and that which is the heaviest point of all, without killing of *Abel*, or any Crime laid to their charge more then that in the beginning of the bill it is said, soundly, and in the style of *Lacedemon*, that they ought not to intermeddle in secular affairs.

Sett. 5. The fifth point is a *Salvo* for the two Universities, but none for the Bishop of *Durham*, nor for the Bishop of *Wells*; nor for the Dean of *Wellsminster* their next Neighbour, who is established in his Government by an especial Act

Act of parliament that of the 27. of Q. Elizabeth.

The sixth and last point is a *Salvo*, for Dukes, Marquises, Earls, Viscounts, Barons or Peers of this Kingdom, that either may be or be such by descent: which clause I hope in God, will prove not only a *Salvo* to those honourable persons, (whereof if we of the Clergy were but so happy, as to have any competent number of our Coat. — *quis*

Sett. 6.

Thebarum porte; vitæ dicitis officia Nili, This bill surely had perished in the womb; and never come to the birth; yet I hope that this clause will prove to this bill, a *feto de se*; and a murderer of it self, and intended for a *Salvo* for noble ministers only, prove a *Salvo* for all other ministers, that be not so happy as to be nobly born; because the very poor minister, for ought we find in Scripture or Common reason, is no more tyed to serve God in his Vocation, then these *in-j-wits*; and nobly born ministers are. And therefore I hope these noble ministers will deal so nobly, as to pull their brethren the poor ministers out of the thorns and briars of this bill. And these are all the true heads and contents of this bill. And amongst these six heads, Your Lordships shall be sure to find me; and I shall expect to find your Lordships in the whole tract of this Committee. And now with your Lordships honourable leave and patience, I will run them over almost as briefly as I have pointed & pricked them down.

For the first, the rise and motive of this bill, which is the duty of men in holy orders not to intermeddle with secular affairs; must arise either from a point of divinity, or from point of convenience or policy: And I hope in God it will not appear to your Lordships that there is any ground either of divinity or policy, to inhibit men in orders so modestly to intermeddle with secular affairs, as that the measure of intermeddling in such affairs, shall not hinder and obstruct the duties of their calling. They ought not so to intermeddle in secular affairs, as to neglect their ministry, no more ought Lay-men neither; for they have a calling and Vocation; wherein they are to walk, as ministers have; they have wife and children and families to care for, and they are not to neglect these to live upon Warrants and Recognizances; to become a kind of Sir Francis Michel, or

Sett. 1.

an *Ignorantia nimis* as Salomon calls it: That place 2 Tim. 2. 4. *No man that wars, entangles himself with the affairs of this life* will be found to be applied by all good Interpreters, to Laymen as well as Church-men, and under favour nothing at all to this purpose: Besides that the word (*inmunditia*) doth point at a man that is so wholly taken up with the affairs of this life, that he utterly neglects the offices and duties of a Christian man; and so I leave that place as incapable of any other exposition nor ever otherwise interpreted but by Popes, Legats, and Canonists, that make a Nose of Wax, of every place of Scripture they touch upon.

But that men in holy orders ought not in a moderate manner, together with the duties of their calling, to help and assist in the Government of the Common-wealth if they be thereunto lawfully called by the Sovereign prince, can never be proved by any good divinity: For in the law of nature, before the Deluge, and a long time after, it is a point that no man will deny me, that the eldest of the Family was both the priest and the magistrate.

Then the people were taken out of Egypt by Moses and Aaron: *Moses and Aaron amongst his Priests*, as it is in the psalm; Then there was a form of a Common-wealth, fetcht from heaven indeed, and planted upon the earth, and Iudiciary laws dictated for the reiglement of the same. Nor do I much care, though some men shall say, that persons in holy orders ought not to intermeddle in secular affairs, when that great God of heaven and earth doth appoint them to intermeddle with all the principal affairs of that estate, witnesse the exorbitant power of the High priest in secular matters, the *Sanedrim*, the 23, the Judges of the Gate, which were the most of them Priests and Levites. And the Church-men of that estate were not all Butchers and Slaughter-men: For they had their Tabernacle, their Synagogues, their Prayers, Preaching, and other exercises of piety: In a word we have *Divinitas*, but they had *operosum ministerium*, as St. *Augustin* speaketh. Our Ministry takes up more of our thoughts, but theirs took up more of their Labours and Industry: Nor is it any matter that

that this Common-wealth is no more in being: it sufficeth it hath been once, and that planted by God himself, who would never have appointed persons in holy orders, to intermeddle with things they ought not to intermeddle with all. I will go on with my Chronology of persons in holy orders, and only put you in mind of *Ely* and *Samuel*, amongst the Judges of *Sadocks* imployment under King *David*, of *Jehojadas* under his Nephew King *Joash*, and would fain know what hurt those men in holy orders did, by intermeddling in secular affairs of that time. Now we are returned from the Captivity of *Babylon*, I desire you to look upon the whole race of the *Macchabees*, even to *Antigon* the last of them all, taken prisoner by *Pompey*, and crucified afterwards by *Mark Anthony*. And shew me any one of those Princes (a woman or two excepted) that was not a Priest and a Magistrate.

We are now come to Christs time, when me thinks I hear *St. Paul*, in the 23. of the *Acts*, excuse himself, for reviling of the high priest: *I wist not Brethren that he was the high priest*, for it is written, *Thou shalt not speak evil of the Ruler of thy people*. Where observe, that the word Ruler in the Greek is *ἐπίσκοπος* the very same word that is used by *St. Paul Rom. 13. 3.* where this word *ἐπίσκοπος* is translated by *Pope, Magistrate*. Then you must be pleased to imagine the Church asleep or almost dead under persecution for almost 300. years, until the happy days of the Emperor *Constantine*, and not expect to find many Magistrates among the Christians. Yet shall you find *St. Paul 1 Cor. 6. 5.* offend against this Bill, and intermeddle knuckle-deep with secular affairs, by inhibiting the *Corinthians* very sharply for their Chicany, their petty-foggery, and Common battery, in going to Law one with another. Besides that as all learned men agree, both the Apostles and Apostolical men, that lived presently after them had a miraculous power of punishing exorbitant crimes, which supplied the power of the ordinary Magistrate, as appears in *Ananias* and *Sapphira*, the incestuous *Corinthian*, and many others. But then from *Constantine's* age, till the Reformation begun by *Luther*, Church-men were so usually imploy-

ed in managing of secular affairs that I shall confesse ingenuously, that it was too much, there lying an appeal from the Courts of the Empire to the Bishops judicatory; as you shall find it every where in the *Code of Justinian*. So was it under *Carolus Magnus*, and all the Carolovingian Line of our neighbour Country of *France*. So and somewhat more it was with us, in the Saxon Heptarchy, the Bishop and the Sheriffe sitting together cheek by joule in their Towns and Courts: But these exorbitant and vast employments in secular affairs I stand not up to defend, and therefore I will hasten to the Reformation: Whereas Mr. *Calvin* in the Fourth Book of his Institutions, and eleventh Distinction, doth confesse that the holy men heretofore did refer their Controversies to the Bishop to avoid troubles in Law: you shall find that from *Luther* to this present day in all the Flux of time, in all Nations, in all manner of Reformations, persons in holy orders were thought fit to intermeddle with secular affairs: *Brenius* was a privy Counsellour to his Duke and Prince. *Fuchius* was a Privy Counsellour to the great Duke of *Borussia*, as it is too notoriously known to those that are vers'd in Histories. *Calvin* and *Besa* whilst they lived, carried all the Council of the State of *Geneva*, under their own Gowns. *Bancroft* in his Survey cap. 26. observeth, that they were of the Council of State there, which consisteth of threescore. And I have my self known *Abraham Schultze*; a privy Counsellour to the Prince Palatine: Reverend *Monsieur du Moulin*, for many years together a Counsellour to the Princesse of *Sedan*: His Brother in Law *Monsieur Rivet*, a great learned personage now in *England*, of the Privy Council of the Prince of *Orange*. You all hear, and I know much good by his former writings of a learned man called Mr. *Henderfon*, and most of your Lordships understand better than I, what employment he hath at this time in his Kingdom. And truly I do beleive, that there is no reformed Church in the World, settled and confirmed by the State, wherein it is held for a point in divinity, that persons in holy orders, ought not to intermeddle with secular affairs: which is all I shall say of the duty of ministers in point of divinity.

Now

Now I come to the second duty of men in holy orders, *Self. 2.* in point of conveniency or policy; and am clearly of opinion, that even in this regard and reflexion, they ought not to be debarred from modestly intermeddling in secular affairs. For if there be any such inconveniency, it must needs arise from this, that to exercise some secular jurisdiction, must be evil in it self; or evil to a person in holy orders: Which is neither so nor so. For the whole office of a subordinate civil Magistrate is most exactly described in *Rom. 13.* 3. 4. and no man can add or detract from the same. The civil power is a divine ordinance, set up to be a Terror to the evil, and an encouragement to good works: This is the whole compass of the civil power. And therefore I do here demand with that most learned Bishop *Davies*, that within a few dayes did sit by my side, in the eleventh Question of his Determinations: What is there of impiety, what of unlawfulness, what unbecoming either the holynesse or calling of a priest, in terrifying the bad, or comforting the good Subject, in repressing of sin, and punishing of sinners. For this is the whole and intire Act of civil jurisdiction: It is in its own nature repugnant to no person, to no function, to no sort or condition of men, let them hold themselves never so holy, never so seraphical, it becomes them very well to repress sin and punish sinners: that is to say, to exercise in a moderate manner civil jurisdiction, if the Sovereign shall require it. And you shall find that this doctrine of debarring persons in holy orders from secular employments, is no doctrine of the Reformed, but the Popish Church, and first brought into this Kingdome by the Popes of *Rome*, and *Lambeth*, *Lanfranc*, *Ascelme*, *Stephen Langton*, and the rest, together with *Orto* and *Osborn*, and to this only end, that the men of *Rome*, might withdraw all the Clergy of this Kingdome, from their obligations to the King and Nobility, who were most of them great Princes in those times, and thereby might establish and create (as in a great part he did) *regnum in regno* a Kingdome of Shavelings in the midst of this Kingdome of England: And hence came those Canons of mighty consequence, able to shoot up a priest at one

shot

shot into heaven: as that he must not meddle with matters of blood; that he must not exercise civil jurisdiction; nor be a Steward to a Noble man in his house; and all the rest of this *Palen* and Garbage: That is, in plain English, the Priest must no longer receive obligations from either King or Lords, but wholly depend upon his holy Fathers, the Pope of *Rome*, and the Pope of *Lambeth*, or at least wise pay him soundly for their Disenfranchisements and Absolutions, when they presume to do the contrary. In the meantime, here is not one word or shew of Reason, to inform an understanding man, that persons in holy orders ought not to terrifie the bad, and comfort the good, to repress sin, and chastise sinners; which is the *summa totalis* of the civil Magistracy, and consequently so far forth at the least to intermeddle with secular affairs, And this is all that I shall say, touching the morive and ground of this Bill, and that persons in holy orders ought not to be inhibited from intermeddling in secular affairs, either in point of divinity, or in point of conveniency and policy.

The second point consists of the persons reflected upon in this Bill, which are Archbishops, Bishops, Parsons, Vicars, and all others in holy orders: of which point I shall say little; only finding these names huddled up in an heap, made me conceive at first, that it might have some relation to Mr. *Bagshawes* reading in the middle Temple, which I ever esteemed to have been very inoffensively delivered by that learned Gentleman, and with little discretion questioned by a great Ecclesiastick then in place. For all that he said was this, That when the Temporal Lords, are more in voices then the Spiritual, they may passe a Bill without consent of the Bishops, which is an assertion so clear in reason, and so often practised, upon the Records and Rolls of Parliament, that no man any way vers'd in either of these, can make any doubt of it, nor do I: Though I humbly conceive no President will be ever found that the Prelates were ever excluded, otherwise then by their own folly, fear or headinelle; For the point of being Justices of peace the Gentleman confesseth he never meddled with Arch-bishops, nor Bishops, nor with any Clergy man,

Amel. Law

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man made a Justice by his Majesties Commission. In the Statute made 34. *Ed. 3. c. 1.* He finds assignees for the keeping of the Peace one Lord, and with him 3. or 4. of the most valiant men of the County, the troublesome times did then so require it, and if God do not bless us with the riddance of these two armies, the like provision will be now as necessary. He finds these men included, but doth not find Church-men excluded; no not in the Statute 13. *Rich. 2. cap. 7.* that requires Justices of peace to be made of Knights, Esquires, and Gentlemen of the Law, of the most sufficient of each County: In which words the Gentleman thinks Clerks were not included, and I clearly say by his favour, they are not excluded: Nor do the learned Sages of the Law, conceive them to be excluded by that Statute. If the King shall command the Lord Keeper to fill up the Commissions of each County, with the most sufficient Knights, Esquires, and Gentlemen of the Law, shall the Lord Keeper thereupon exclude the Noble-men and the Prelates? I have often in my dayes received this Command but never heard of this interpretation before this time: So that I cannot conceive from what ground this general sweep-stake of Arch-bishops, Bishops, Parsons, Vicars and all others in holy orders should proceed. I have heard since the beginning of my sicknesse, that it hath been alledged in this House, that the Clergy in the sixth of *Edw. the third*, did disavow that the custody of the peace did belong to them at all, and I beleive that such a thing is to be found amongst the Notes of the privileges of this House: But first you must remember, that it was in a great storm, and when the waters were much troubled, and the wild people unapt to be kept in orders by Miters and Crosters-staves: But yet if that noble Lord, shall be pleased to cast his eye upon the Roll it self, he shall find that this poor excuse did not serve the Prelates turns: For they were compelled with a wittnesse, to defend their parts of the preservation of the peace of the Kingdome, as well as the Noble men and Gentry: And you shall find the ordinance to this effect set down upon that Roll. I conclude therefore with that Noble Lords favour, that the sweeping of

all the Clergy out of Temporal offices, is a motion of the first impression; and was never heard of in the English Common-wealth before this Bill.

I come in the third place to the main part of this cause, the things to be severed from all men in holy orders: which are as I told you of three kinds. First, matters of Freehold, as the Bishops votes in parliament and Legislative power. Secondly, matters of favour as to be a Judge in Star-chamber, to be a privy Counsellour, to be a Justice of peace, or a Commissioner in any Temporal affairs. Thirdly, and mixt matters of Freehold and Favour too, as the Charters of some Bishops: and many of the ancient Cathedrals of this Kingdome, who allow them a Justice or two within themselves, or their Close as they call it, and exempt those grave and learned men from the rudeness and insolency of Tapsters, Brewers, Inn-keepers, Tailours, and Shoemakers, which do integrate and make up the bodies of our Country Cities, and Incorporations. And now is the Axe laid to the very root of the Ecclesiastical tree, and without your Lordships justice and favour, all the branches are to be lopt off quite, with those later clauses, and the Stock and root it self, to be quite grubb'd and digged up, by that first point of abolishing all Vote and Legislative power in all Clergy men, leaving them to be no longer any part of the people of *Rome*, but meer Slaves and Bondmen to all intents and purposes: And the priests of *England* one degree inferiour to the priests of *Jeroboam*, being to be accounted worse then the Tayle of the people.

Now I hope no *English* man will doubt, but this Vote and Representation in Parliament, is not only a freehold, but the greatest freehold that any Subject in *England*, or in all the Christian world, can brag of at this day, that we live under a King, and are to be governed by his Laws, that is, not by his arbitrary Edicts or Rescripts, but by such Laws confirmed by him, and assented to by us, either in our proper persons, or in our Assignees, and Representations.

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This is the very Soul and Genius of *Magna Charta*, and without this one spirit, that great Statute is little lesse, then *Littera occidens*, a dead and uselesse peice of paper. You heard it most truly opened unto you, by a wise and judicious Peer of this House, that *legem patens quam ipse tuleris*, was a Motto wherein *Alexander Severus* had not more interest, then every true born *English* man: No forty shilling man in *England*, but doth in person or Representation enjoy his freedom and liberty: The prelates of this Kingdome, as a Looking-glass and Representation of the Clergy, have been in possession hereof these thousand years and upwards. The princes of the *Norman* race, for their own ends, and to strengthen themselves with men and money, erected the Bishopricks soon after the Conquest into Baronies, and left them to sit in that House with their double capacities about them; the later invented for the profit of the prince, not excluding the former, remaining always from the beginning for the profit and concernment of the poor Clergy: Which appears not only by the Saxon Laws set forth by Mr. *Lambard*, and Sir *Henry Spelman*, but also by the Bishops Writs and Summons to parliament, in use to this very day. We have many precedents, upon the Rolls, that in Vacancy of Episcopal Sees, the Guardian of the Spirituals, though but a simple priest, hath been called to sit in this Honourable House, by reason of that former Representation: and such an officer I was my self over that Sea (whereof I am Bishop) some 25 years agoe, and might then have been summoned by Writ unto this Honourable House, at that very time by reason of the Spirituality of that Diocese, which then as a simple priest, I did by virtue of the aforesaid office represent. And therefore most noble Lords, look upon the Ark of God representative, that in this time floates in great danger, in this deluge of waters: If there be any *Cham*, or unclean Creature therein; out with him, and let every man bear his own Butthen, but save the Ark, for God and Christ Jesus his sake, who hath built it in this Kingdome, for saving of people; and your Lordships are too wise to conceive that the Word and Sacraments, the means of our

Salvation, will be ever effectually received from those ministers, whose persons shall be so vilified and dejected, as to be made no parcels or fragments of this Commonwealth: No saith *Gregory*, the last trick the Devil had in this world was this, that when he could not bring the word and Sacraments into disgrace by errors, and Heretical opinions, he invented this project, (and much applauded his wit therein) by casting slight and contempt upon the preachers and ministers. And my Noble Lords, you are too wise to believe what the Common people talk, that we have a vote in the election of Knights and Burgeses, and consequently some Figure and Representation in the Noble House of Commons: They of the Ministry have no vote in these elections, they have no Representation in that Honourable House, and these contrary assertions are so slight and groundlesse, as I will not offer to give them any answer. And therefore right Honourable Lords, have a special care of the Church of *England*, your Mother in this point; and as God hath made you the most noble of all the peers of the Christian World, so do not you give way, that our Nobility shall be taught henceforth, as the *Romans* were, in the time of the first and second Punick wars, by their Slaves and Bond-men only, and that the Church of God in this Island, may come to be served by the most ignoble Ministers that ever have been seen in the Christian Church, since the passion of our Saviour. And so much for the first thing, which this Bill intends to sever from persons in holy orders, *viz.* votes & representations in parliament. The next thing to be severed from them by this Bill, is of a much baser mettall and alloy, sittings in Star Chamber, sittings at Councel-Table, sitting in Commissions of the peace and other Commissions of secular affairs, which are such favours and graces of Christian princes, as the Church may have a being and subsistence without them: The Fortunes of our *Greece*, do not depend upon these Spangles; and the Sovereign prince hath imparted and withdrawn these kind of favours without the envy or regret of any wise Ecclesiastical persons. But my Noble Lords this is the Case. Our King hath by the Statute restored unto him the Head-ship of the Church

Church of England, and by the Word of God he is, *Custos utriusq; Tabulae*. And will your Lordships allow this Ecclesiastical Head no Ecclesiastical Sences at all? No Ecclesiastical person to be consulted withal, nor in any Circumstances of time and place. If *Cranmer* had been thus dealt withal in the minority of our young *Josias*, King *Edward* the sixth of pious memory, what had become of that great Work of our Reformation, in this flourishing Church of England? But I know before whom I speak; I do not mean to dine your Lordships with Coleworts, the harsh Consequences of this point, your Lordships do understand as well as I.

The last robe that some persons, in holy orders, are to be stript of, hath a kind of mixture of Freehold and favour; of the proper right, and the graces of the King, which are certain old Charters, that some few Bishops, and many ancient and Cathedral Churches have purchased & procured from the ancient Kings before & since the conquest, to enable them to live quiet in their own precincts and close (as they call it) under a Justice or two, of their own body, without being abandoned upon every slight occasion to the injuries and vexations of Mechanical Tradesmen, of which your Lordships best know, these Countrey Incorporations do most consist: Now whether these few Charters have their foundation by favour, or by right, I should conceive under your Lordships favour it is neither favour nor right to take them away, without some just crime objected and proved; for if they be abused in any particular, Mr. Attorney General can find an ordinary remedy to repair the same by a Writ of *Ad quod damnum*, without troubling of the two Houses of Parliament, and this is all I shall speak to this point.

And now I come to the fourth part of this bill, which is the manner of Inhibition, heavy every way, heavy in the penalty, heavier a great deal in the incapacity, the weighing of penalty: will you consider I beseech you, the small wyers, that is, poor Causes, that are so tedious the same; and then the heavy load that hangs upon these wyers. It is thus, if a natural subject of England interested

sect. 4.

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in the *Magna Charta*, and petition of Right, as well, as any other; yet being a person in holy orders, shall happen unfortunately to vote in Parliament, to obey his Prince by way of Council, or by way of a Commissioner, be required thereunto; then is he presently to loose and forfeit for his first offence all his Means and Livelihood for one year, and for the second to forfeit his Freehold in that kind for ever, and ever. And I do not believe that your Lordships ever saw such an heavy weight of censure, hang upon such thin wyers of reasons, in any Act of Parliament made heretofore. This peradventure may move others most, but it does not me; it is not the penalty, but the incapacity, and as the Philosophers would call it, the natural impotency, imposed by this Bill on men, in holy orders to serve the King, or the State in this kind; be they otherwise never so able, never so willing, nor never so vertuous; which makes me draw a kind of *Timantes* vail over this point, and leave it without any amplification at all, unto your Lordships wise and inward thoughts, and considerations.

Sec. 5.

The fifth point is the *Salvo* made for the two Universities, to have Justices of the peace amongst them of their own heads of Houses, which I confess to be done upon mature, and just consideration, for otherwise the Scholers must have gone for Justice, to those parties to whom they go for their Mustard and Vinegar: but yet under favour the reasons and inducements cannot be stronger, then may be found out for other Ecclesiastical persons, as the Bishop of *Durham*, who was ever since the dayes of *K. John*, suffered by the Princes, and Parliaments of *England*, to exercise justice upon the parties in those parts; as being in truth the Kings subjects, but the Bishops Tenents, and therefore not likely to have their Causes more duly weighed; then when the ballance is left in the hand of their own proper Landlords. The Case of the Bishop of *Ely* for some parts of that Isle, is not much different, but if a little partiality doth not herein, cast some mist before mine eyes, the Case of the Dean and City of *Westminster*, wherein this Parliament is now sitting, is far more considerable, both in the antiquity,

quity, extent of Jurisdiction, and the warrants whereupon it is grounded, then any one of those places before mentioned; for there is a clear Statute made 27. *Eliz.* for the drawing all *Westminster*, *St. Clements*, and *St. Martins le grand*, *London*, into a Corporation, to be reigled, by a Dean, a Steward, 12 Burgesses, and 12 Assistants. And if some salve or plaister, shall not be applied unto *Westminster* in this point, all that government and Corporation, is at an end: But this I perceive since is taken into Consideration by the Honorable House of Commons themselves.

I come now to the last point, and the second *Salvo* of *Sec. 6.* this Bill, which is for Dukes, Marquisses, Earls, Viscounts, Barons, or Peers, of this Kingdome, which is a clause that looks with a kind of contrary glance upon persons in holy orders. It seems to favour some, but so that thereby, and in that very Act, it casts an aspersion of baseness, and ignobility upon all the rest of that holy profession; for if no persons in holy orders ought to intermeddle in secular affairs, how come these Nobles to be excepted out of that universal negative? is it because they are nobly born? then surely it must be granted that the rest must be excluded as being made of a rough and base piece of clay: For the second part of this reason in beginning of the Bill, can never bear out this *Salvo*, that the office of the ministry is of so great importance that it will take up the whole man, and all his best endeavours; Surely the office of the ministry is of no greater importance in a poor man, then in a noble man, nor doth it take away the whole man in the one, and but a piece of him in the other; I cannot give you many Instances herein out of Scripture, because you know that in those dayes, *not many mighty, not many noble* were called—&c. *1 Cor. 1. 26.* but when any noble were called, I do not find, but they did put more of the whole man and their best endeavours, upon the ministry, then men in holy orders, are at the least in holy Scripture noted to have done. I put your Lordships in mind of those noblemen of *Beraa*, compared with those of *Thessalonica*, in the 17. of the *Acts* of the Apostles: So that this *Salvo* for the nobility must needs be (under your Lordships fa-
vour)

your) a secret wound unto the rest of the ministry, unlesse your Lordships by your great wisdom will be willing to change it into a *Panacea* & commonplaster, both to the one, and the other : and under your Lordships favour, I conceive may be done upon a very forcing argument. The office of the ministry is of equal importance & takes up the whole man, and all his best endevours in the noble born, as well as in the mean born minister, but it is lawful all this notwithstanding, for the noble born minister to intermeddle with secular affairs, and therefore it is likewise lawful for the mean born so to do. And so in my Conscience I speak it, in the presence of God, and great noble men; it is most lawful for them to intermeddle with secular affairs, so as they be not intrangled, (as the Apostle calls it) with this intermeddling as to slight and neglect the office of their calling, which no minister noble or ignoble can do without grievously sinning against God and his own Conscience: It is lawful for persons in holy orders to intermeddle, it is without question, or else they could not make provision of meat and drink, as *Beza* interprets the place: It is not lawful for them to be thus intrangled and bound up with secular affairs, which I humbly beseech your Lordships to consider, nor as a distinction invented by me, but clearly expressed by the Apostle himself.

And thus my noble Lords, I shall without any further molestation, and with humble thanks for this great patience leave this great Cause of the Church to your Lordships wise and gracious consideration: Here is my *Mars-Hill*, and further I shall never appeal for justice. Some assurance I have from the late solemn vote and protestation of both Houses, for the maintaining and defending the power, and privileges of Parliament, that if this Bill were now to be framed in the one House, it would never be offered without much qualification, as I perswade my self it will not be approved in the other.

Parliaments are indeed omnipotent, but no more omnipotent then God himself, who for all that cannot do every thing, God cannot but perform his promise. A Parliament (under favour) cannot unswear, what it hath already vowed

vowed. This is an old Maxime, which I have learned of the Sages of the Law, a parliament cannot be *sele de se*, It cannot destroy or undo it self.

An Act of parliament (as that in the 17. and another in the 21. *Rich. 2.*) made to be unrepealable in any subsequent parliament; was *ipso facto*, void in the constitution; why? Because it took away the power and priviledges, that is, not the plumes and teathers, the remote accidents; but the very specifical forme, essence, and being of a parliament. So if an Act should be made to take away the Votes of all the Commons; or of all the Lords, it were absolutely a void Act.

I will conclude with the first Epistle to the *Corinthians*, Cap. 12.

Verf. 15. *If the Foot shall say, because I am not the hand I am not of the Body, is it therefore not of the body?*

Verf. 20. *But now are they many Members, yet but one Body.*

Verf. 22. *And the Eye cannot say unto the Hand, I have no need of thee, nor again the Head unto the Feet, I have no need of you.*

Some Annotations upon the Arch-Bishops SPEECH.

WHereas the Arch-bishop saith, *Sess. 3.* That the Bishops sate in parliaments and all publick Assemblies of State a thousand years, it is certainly true, as appears fully by the Subscriptions of their names to all constitutions, Laws, and Ordinances, made in the several great Councils of the Kingdome, in the times of the Saxon-Kings; the manner being then to give their assent, not by verbal voting, but by inscribing their names, as fully

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appears

in holy Orders ought not to intermeddle, ——— &c. ———
 And this duty of ministers may be taken in this place two
 several ways, either for their duty in point of Divinity :
 or for their duty in point of Convenience, which we com-
 monly call policy. In regard of either of these duties,
 it may be conceived that men in holy orders, ought not to
 intermeddle in secular affairs, ——— &c. ——— And
 this is the Motive, Rise and Ground of this bill.

Sett. 2. The second point are the persons concerned in this bill,
 which are Arch-bishops, Bishops, Parsons, Vicars, and
 all other in holy orders.

Sett. 3. The third point contains the things inhibited from this
 time forward to such persons by this Bill, and they are of
 several sorts and natures.

First, Freeholds and Rights of such persons, as their suf-
 frages, votes, and legislative power in parliament.

Secondly matters of princely favours, as to Sit in Scar-
 chamber, to be called to the Council-board, to be Justice
 of peace, ——— &c. ———

Thirdly, matters of a mixt or concrete nature, that
 seem to be both Freeholds, and favours of former princes,
 as the Charters of some of the Bishops, and some of the
 ancient Cathedrals are conceived to be. And these are all
 the matters, or things inhibited from those persons in ho-
 ly orders, by this present bill.

Sett. 4. Fourthly, the manner of this Inhibition, which is of
 a double nature: first under a high and severe penalty, and se-
 condly under a *Cains* mark, an eternal kind of disability or
 incapacity laid upon them from enjoying hereafter any
 of these Freeholds, rights, favours, or Charters of for-
 mer princes; and that which is the heaviest point of all,
 without killing of *Abel*, or any Crime laid to their charge
 more then that in the beginning of the bill it is said,
 roundly, and in the style of *Lacedemon*, that they ought not
 to intermeddle in secular affairs.

Sett. 5. The fifth point is a *Salvo* for the two Universities, but
 none for the Bishop of *Durham*, nor for the Bishop of
Ely; nor for the Dean of *Westminster* their next Neigh-
 bour, who is established in his Government by respectal

Act of parliament that of the 27. of Q. Elizabeth.

The sixth and last point is a *Salvo*, for Dukes, Marquises, Earls, Viscounts, Barons or Peers of this Kingdom, that either may be or are such by descent: which clause I hope in God, will prove not only a *salvo* to those honourable persons, (whereof if we of the Clergy were but so happy, as to have any competent number of our Coat. ————— *quot Thebarum porta, vel divitis ostia Nili*, This bill surely had perished in the womb, and never come to the birth) yet I hope that this clause will prove to this bill, a *felo de se*, and a murderer of it self, and intended for a *Salvo* for noble ministers only, prove a *Salvo* for all other ministers, that be not so happy as to be nobly born; because the very poor minister, for ought we find in Scripture or Common reason, is no more tied to serve God in his Vocation, then these *poor wits*, and nobly born ministers are. And therefore I hope these noble ministers will deal so nobly, as to pull their brethren the poor ministers out of the thorns and briars of this bill. And these are all the true heads and contents of this bill. And amongst these six heads, Your Lordships shall be sure to find me; and I shall expect to find your Lordships in the whole tract of this Committee. And now with your Lordships honourable leave and patience, I will run them over almost as breisly as I have pointed & pricked them down.

Sett. 6.

For the first, the rise and motive of this bill, which is the duty of men in holy orders not to intermeddle with secular affairs, must arise either from a point of divinity, or from point of conveniency or policy: And I hope in God it will not appear to your Lordships that there is any ground either of divinity or policy, to inhibit men in orders so modestly to intermeddle with secular affairs, as that the measure of intermeddling in such affairs, shall not hinder and obstruct the duties of their calling. They ought not so to intermeddle in secular affairs, as to neglect their ministry, no more ought Lay-men neither; for they have a calling and Vocation, wherein they are to walk, as ministers have, they have wife and children and families to care for, and they are not to neglect these to live upon Warrants and Recognizances, to become a kind of Sir Francis Michel, or

Sett. 1.

an *Ignotus nimis* as Salomon calls it: That place 2 Tim. 2. 4. *No man that wars, entangles himself with the affairs of this life,* will be found to be applied by all good Interpreters, to Laymen as well as Church-men; and under favour nothing at all to this purpose: Besides that the word (*ἐμπλέκω*) doth point at a man that is so wholly taken up with the affairs of this life, that he utterly neglects the offices and duties of a Christian man; and so I leave that place as incapable of any other exposition nor ever otherwise interpreted but by Popes, Legats, and Canonists, that make a Nose of Wax, of every place of Scripture they touch upon.

But that men in holy orders ought not in a moderate manner, together with the duties of their calling, to help and assist in the Government of the Common-wealth if they be thereunto lawfully called by the Sovereign prince, can never be proved by any good divinity: For in the law of nature, before the Deluge, and a long time after, it is a point that no man will deny me, that the eldest of the Family was both the priest and the magistrate.

Then the people were taken out of Egypt by Moses and Aaron: *Moses and Aaron amongst his Priests*, as it is in the psalm; Then there was a form of a Common-wealth, fetcht from heaven indeed, and planted upon the earth, and Iudiciary laws dictated for the reiglement of the same. Nor do I much care, though some men shall say, that persons in holy orders ought not to intermeddle in secular affairs, when that great God of heaven and earth doth appoint them to intermeddle with all the principal affairs of that estate, witnesse the exorbitant power of the High priest in secular matters, the *Sanhedrim*, the 23. the Judges of the Gate, which were the most of them Priests and Levites. And the Church-men of that estate were not all Butchers and Slaughter-men: For they had their Tabernacle, their Synagogues, their Prayers, Preaching, and other exercises of piety: In a word we have *Divinitum*, but they had *operosum ministerium*; as St. *Augustin* speaketh. Our Ministry takes up more of our thoughts, but theirs took up more of their Labours and Industry: Nor is it any matter; that

that this Common-wealth is no more in being; it sufficeth it hath been once, and that planted by God himself, who would never have appointed persons in holy orders, to intermeddle with things they ought not to intermeddle withall. I will go on with my Chronology of persons in holy orders, and only put you in mind of *Ely* and *Samuel*, amongst the Judges of *Sadocks* employment under King *David*, of *Jebojadas* under his Nephew King *Joash*, and would fain know what hurt those men in holy orders did, by intermeddling in secular affairs of that time, Now we are returned from the Captivity of *Babylon*, I desire you to look upon the whole race of the *Macchibees*, even to *Antigonus* the last of them all, taken prisoner by *Pompey*, and crucified afterwards by *Mark Anthony*. And shew me any one of those Princes (a woman or two excepted) that was not a Priest and a Magistrate.

We are now come to Christs time, when me thinks I hear *St. Paul*, in the 23. of the *Acts*, excuse himself, for reviling of the high priest: *I wist not Brethren that he was the high priest*, for it is written, *Thou shalt not speak evil of the Ruler of thy people*, Where observe, that the word Ruler in the Greek is *ἀρχιερα*, the very same word that is used by *St. Paul Rom. 13. 3.* where this word *ἀρχιερα* is translated by *Pexa, Magistrates*. Then you must be pleased to imagine the Church asleep or almost dead under persecution for almost 300. years, until the happy days of the Emperor *Constantine*, and not expect to find many Magistrates among the Christians: Yet shall you find *St. Paul 1 Cor. 6. 5.* offend against this Bill, and intermeddle knuckle-deep, with secular affairs, by inhibiting the *Corinthians* very sharply for their Chicanery, their petty-foggery, and Common battery, in going to Law one with another. Besides that as all learned men agree, both the Apostles and Apostolical men that lived presently after them had a miraculous power of punishing exorbitant crimes, which supplied the power of the ordinary Magistrate; as appears in *Ananias* and *Saphyra*, the incestuous *Corinthian*, and many others. But then from *Constantines* age, till the Reformation begun by *Luther*, Church-men were so usually imployed.

ed in managing of secular affairs that I shall confesse ingenuously, that it was too much, there lying an appeal from the Courts of the Empire to the Bishops judicatory, as you shall find it every where in the *Code of Justinian*. So was it under *Carolus Magnus*, and all the Carolovingian Line of our neighbour Country of *France*. So and somewhat more it was with us, in the Saxon Heptarchy, the Bishop and the Sheriffe sitting together cheek by joule in their Towns and Courts: But these exorbitant and vast employments in secular affairs I stand not up to defend, and therefore I will hasten to the Reformation: Whereas Mr. *Calvin* in the Fourth Book of his Institutions, and eleventh Distinction, doth confesse that the holy men heretofore did refer their Controversies to the Bishop to avoid troubles in Law: you shall find that from *Luther* to this present day in all the Flux of time, in all Nations, in all manner of Reformations, persons in holy orders were thought fit to intermeddle with secular affairs: *Brentius* was a privy Counsellour to his Duke and Prince. *Funtinus* was a Privy Counsellour to the great Duke of *Borussia*, as it is too notoriously known to those that are vers'd in Histories. *Calvin* and *Beza* whilst they lived, carried all the Council of the State of *Geneva*, under their own Gowns. *Bancroft* in his Survey cap. 26. observeth, that they were of the Council of State there, which consisteth of threescore. And I have my self known *Abraham Scultorum*, a privy Counsellour to the Prince Palatine: Reverend *Monsieur du Monstier*, for many years together a Counsellour to the Princessse of *Sedan*: His Brother in Law *Monsieur Rivet*, a great learned personage now in *England*, of the Privy Council of the Prince of *Orange*. You all hear, and I know much good by his former writings of a learned man called Mr. *Henderfon*, and most of your Lordships understand better then I, what employment he hath at this time in his kingdom. And truly I do beleive, that there is no reformed Church in the World, settled and constituted by the State, wherein it is held for a point in divinity, that persons in holy orders, ought not to intermeddle with secular affairs: which is all I shall say of the duty of ministers in point of divinity.

Now

Now I come to the second duty of men in holy orders, *Sect. 2.* in point of conveniency or policy; and am clearly of opinion, that even in this regard and reflexion, they ought not to be debarred from modestly intermeddling in secular affairs. For if there be any such inconveniency, it must needs arise from this, that to exercise some secular jurisdiction, must be evil in it self, or evil to a person in holy orders: Which is neither so nor so. For the whole office of a subordinate civil Magistrate is most exactly described in *Rem. 13. 3. 4.* and no man can add or detract from the same. The civil power is a divine ordinance, set up to be a Terror to the evil, and an encouragement to good works: This is the whole compass of the civil power. And therefore I do here demand with that most learned Bishop *Davenant*, that within a few dayes did sit by my side, in the eleventh Question of his Determinations: What is there of impiety, what of unlawfulness, what unbecoming either the holynesse or calling of a priest, in terrifying the bad, or comforting the good Subject, in repressing of sin, and punishing of sinners. For this is the whole and intire Act of civil jurisdiction: It is in its own nature repugnant to no person, to no function, to no sort or condition of men, let them hold themselves never so holy, never so seraphical, it becomes them very well to repress sin and punish sinners; that is to say, to exercise in a moderate manner civil jurisdiction, if the Sovereign shall require it. And you shall find that this doctrine of debarring persons in holy orders from secular employments, is no doctrine of the Reformed, but the Popish Church, and first brought into this Kingdome by the Popes of *Rome*, and *Lombardo*, *Lanfranc*, *Anselme*, *Stephen Langton*, and the rest, together with *Orto* and *Othobon*, and to this only end; that the man of *Rome*, might withdraw all the Clergy of this Kingdome, from their obligations to the King and Nobility, who were most of them great Princes in those times, and thereby might establish and create (as in a great part he did) *regnum in regno*, a Kingdome of Shavelings in the midst of this Kingdome of *England*: And hence came those Canons of mighty consequence, able to shoot up a priest at one
shot

shot into heaven: as that he must not meddle with matters of blood; that he must not exercise civil jurisdiction, not be a Steward to a Noble man in his house, and all the rest of this *Palea* and Garbage: That is, in plain English, the Priest must no longer receive obligations from either King or Lords, but wholly depend upon his holy Fathers, the Pope of *Rome*, and the Pope of *Lambeth*, or at least wise pay him soundly for their Dissensions and Absolutions, when they presume to do the contrary. In the meantime, here is not one word or shew of Reason, to inform an understanding man, that persons in holy orders ought not to terrifie the bad, and comfort the good, to repress sin, and chastise sinners; which is the *summa totalis* of the civil Magistracy, and consequently so far forth at the least to intermeddle with secular affairs, And this is all that I shall say, touching the motive and ground of this Bill, and that persons in holy orders ought not to be inhibited from intermeddling in secular affairs, either in point of divinity, or in point of conveniency and policy.

The second point consists of the persons reflected upon in this Bill, which are Archbishops, Bishops, Parsons, Vicars, and all others in holy orders: of which point I shall say little; only finding these names huddled up in an heap, made me conceive at first, that it might have some relation to Mr. *Bagshawes* reading in the middle Temple, which I ever esteemed to have been very inoffensively delivered by that learned Gentleman, and with little discretion questioned by a great Ecclesiastick then in place. For all that he said was this, That when the Temporal Lords, are more in voices then the Spiritual, they may passe a Bill without consent of the Bishops, which is an assertion so clear in reason, and so often practised, upon the Records and Rolls of Parliament, that no man any way vers'd in either of these, can make any doubt of it, nor do I: Though I humbly conceive no President will be ever found that the Prelates were ever excluded, otherwise then by their own folly, fear or headiness; For the point of being Justices of peace the Gentleman confesseth he never meddled with Arch-bishops, nor Bishops, nor with any Clergy man,

man made a Justice by his Majesties Commission. In the Statute made 34. Ed. 3. c. 1. He finds assignees for the keeping of the Peace one Lord, and with him 3. or 4. of the most valiant men of the Countie, the troublesome times did then so require it, and if God do not bless us with the riddance of these two armies, the like provision will be now as necessary. He finds these men included, but doth not find Church-men excluded; no not in the Statute 13. Rich. 2. cap. 7. that requires Justices of peace to be made of Knights, Esquires, and Gentlemen of the Law, of the most sufficient of each Countie: In which words the Gentleman thinks Clerks were not included, and I clearly say by his favour, they are not excluded: Nor do the learned Sages of the Law, conceive them to be excluded by that Statute. If the King shall command the Lord Keeper to fill up the Commissions of each Countie, with the most sufficient Knights, Esquires, and Gentlemen of the Law, shall the Lord Keeper thereupon exclude the Noble-men and the Prelates? I have often in my dayes received this Command but never heard of this interpretation before this time: So that I cannot conceive from what ground this general sweep-stake of Arch-bishops, Bishops, Parsons, Vicars and all others in holy orders should proceed. I have heard since the beginning of my sicknesse, that it hath been alledged in this House, that the Clergy in the sixth of Edw. the third, did disavow that the custody of the peace did belong to them at all, and I beleive that such a thing is to be found amongst the Notes of the priviledges of this House: But first you must remember, that it was in a great storm, and when the waters were much troubled, and the wild people unapt to be kept in orders by Miters and Crostiers-staves: But yet if that noble Lord, shall be pleased to cast his eye upon the Roll it self, he shall find that this poor excuse did not serve the Prelates turns: For they were compelled with a wittnesse, to defend their parts of the preservation of the peace of the Kingdome, as well as the Noble men and Gentry: And you shall find the ordinance to this effect set down upon that Roll. I conclude therefore with that Noble Lords favour, that the sweeping of

all the Clergy out of Temporal offices, is a motion of the first impression; and was never heard of in the English Common-wealth before this Bill.

I come in the third place to the main part of this cause, the things to be severed from all men in holy orders: which are as I told you of three kinds. First, matters of Freehold, as the Bishops votes in parliament and Legislative power. Secondly, matters of favour as to be a Judge in Star-chamber, to be a privy Counsellour, to be a Justice of peace, or a Commissioner in any Temporal affairs. Thirdly, and mixt matters of Freehold and Favour too, as the Charters of some Bishops: and many of the ancient Cathedrals of this Kingdome, who allow them a Justice or two within themselves, or their Close as they call it, and exempt those grave and learned men from the rudeness and insolency of Tapsters, Brewers, Inn-keepers, Tailours, and Shoemakers, which do integrate and make up the bodies of our Country Cities, and Incorporations. And now is the Axe laid to the very root of the Ecclesiastical tree, and without your Lordships justice and favour, all the branches are to be lopt off quite, with those later clauses, and the Stock and root it self, to be quire grubb'd and digged up, by that first point of abolishing all Vote and Legislative power in all Clergy men, leaving them to be no longer any part of the people of *Rome*, but meer Slaves and Bondmen to all intents and purposes: And the priests of *England* one degree inferiour to the priests of *Jeroboam*, being to be accounted worse then the Tayle of the people.

Now I hope no *English* man will doubt, but this Vote and Representation in Parliament, is not only a freehold, but the greatest freehold that any Subject in *England*, or in all the Christian world, can brag of at this day, that we live under a King, and are to be governed by his Laws, that is, not by his arbitrary Edicts or Rescripts, but by such Laws confirmed by him, and assented to by us, either in our proper persons, or in our Assignees, and Representations.

This

This is the very Soul and Genius of *Magna Charta*, and without this one Spirit, that great Statute is little lesse, then *Littera occidens*, a dead and uselesse peice of paper. You heard it most truly opened unto you, by a wise and judicious Peer of this House, that *legem patere quam ipse tuleris*, was a Motto wherein *Alexander Severus* had not more interest, then every true born *English* man: No forty shillings man in *England*, but doth in person or Representation enjoy his freedom and liberty: The prelates of this Kingdome, as a Looking-glass and Representation of the Clergy, have been in possession hereof these thousand years and upwards. The princes of the *Norman* race, for their own ends, and to strengthen themselves with men and money, erected the Bishopricks soon after the Conquest into Baronies, and left them to sit in that House with their double capacities about them; the later invented for the profit of the prince, not excluding the former, remaining always from the beginning for the profit and concernment of the poor Clergy: Which appears not only by the Saxon Laws set forth by Mr. *Lambard*, and Sir *Henry Spelman*, but also by the Bishops Writs and Summons to parliament, in use to this very day. We have many precedents, upon the Rolls, that in Vacancy of Episcopal Sees, the Guardian of the Spirituals, though but a simple priest, hath been called to sit in this Honourable House, by reason of that former Representation: and such an officer I was my self over that Sea (whereof I am Bishop) some 25, years agoe, and might then have been summoned by Writ unto this Honourable House, at that very time by reason of the Spiritualty of that Diocese, which then as a simple priest, I did by virtue of the aforesaid office represent. And therefore most noble Lords, look upon the Ark of God representative, that in this time floates in great danger, in this deluge of waters: If there be any *Cham*, or unclean Creature therein; out with him, and let every man bear his own Burthen, but save the Ark, for God and Christ Jesus his sake, who hath built it in this Kingdome, for saving of people; and your Lordships are too wise to conceive that the Word and Sacraments, the means of our

Salvation, will be ever effectually received from those ministers, whose persons shall be so vilified and dejected, as to be made no parcels or fragments of this Commonwealth: No saith *Gregory*, the last trick the Devil had in this world was this, that when he could not bring the word and Sacraments into disgrace by errors, and Heretical opinions, he invented this project, (and much applauded his wit therein) by casting slight and contempt upon the preachers and ministers. And my Noble Lords, you are too wise to believe what the Common people talk, that we have a vote in the election of Knights and Burgesses, and consequently some Figure and Representation in the Noble House of Commons! They of the Ministry have no vote in these elections, they have no Representation in that Honourable House, and these contrary assertions are so slight and groundlesse, as I will not offer to give them any answer. And therefore right Honourable Lords, have a special care of the Church of *England*, your Mother in this point; and as God hath made you the most noble of all the peers of the Christian World, so do not you give way, that our Nobility shall be taught henceforth, as the *Romans* were, in the time of the first and second Punick wars, by their Slaves and Bond-men only, and that the Church of God in this Island, may come to be served by the most ignoble Ministers that ever have been seen in the Christian Church, since the passion of our Saviour. And so much for the first thing, which this Bill intends to sever from persons in holy orders, *viz.* votes & representations in parliament. The next thing to be severed from them by this Bill, is of a much baser mettall and alloy, sittings in Star Chamber, sittings at Councel-Table, sitting in Commissions of the peace and other Commissions of secular affairs; which are such favours and graces of Christian princes, as the Church may have a being and subsistence without them: The Fortunes of our *Greece*, do not depend upon these Spangles; and the Sovereign prince hath imparted and withdrawn these kind of favours without the envy or regret of any wise Ecclesiastical persons. But my Noble Lords this is the Case. Our King hath by the Statute restored unto him the Head-ship of the

Church

Church of *England*, and by the Word of God he is, *Custos utriusq; Tabulae*. And will your Lordships allow this Ecclesiastical Head no Ecclesiastical Sences at all? No Ecclesiastical person to be consulted withal, not in any Circumstances of time and place. If *Cranmer* had been thus dealt withal in the minority of our young *Josias*, King *Edward* the sixth of pious memory, what had become of that great Work of our Reformation, in this flourishing Church of *England*? But I know before whom I speak, I do not mean to dine your Lordships with Coleworts, the harsh Consequences of this point, your Lordships do understand as well as I.

The last robe that some persons, in holy orders, are to be stript of, hath a kind of mixture of Freehold and favour, of the proper right, and the graces of the King, which are certain old Charters, that some few Bishops, and many ancient and Cathedral Churches have purchased & procured from the ancient Kings before & since the conquest, to inable them to live quiet in their own precincts and close (as they call it) under a Justice or two, of their own body, without being abandoned upon every slight occasion to the injuries and vexations of Mechanical Tradesmen, of which your Lordships best know, these Countrey Incorporations do most consist: Now whether these few Charters have their foundation by favour, or by right, I should conceive under your Lordships favour it is neither favour nor right to take them away, without some just crime objected and proved; for if they be abused in any particular, Mr. Attorney General can find an ordinary remedy to repair the same by a Writ of *Ad quod damnum*, without troubling of the two Houses of Parliament, and this is all I shall speak to this point.

And now I come to the fourth part of this bill, which is the manner of Inhibition, heavy every way, heavy in the penalty, heavier a great deal in the incapacity, the weighing of penalty: will you consider I beseech you, the small wyers, that is, poor Causes, that are to induce the same, and then the heavy lead that hangs upon these wyers. It is thus, if a natural subject of *England* interessed in

Sec. 4.

in the *Magna Charta*, and petition of Right; as well, as any other; yet being a person in holy orders, shall happen unfortunately to vote in Parliament, to obey his Prince by way of Council, or by way of a Commissioner be required thereunto, then is he presently to loose and forfeit for his first offence all his Means and Livelyhood for one year, and for the second to forfeit his Freehold in that kind for ever, and ever. And I do not believe that your Lordships ever saw such an heavy weight of censure, hang upon such thin wyers of reasons, in any Act of Parliament made heretofore. This peradventure may move others most, but it does not me; it is not the penalty, but the incapacity, and as the Philosophers would call it, the natural impotency, imposed by this Bill on men, in holy orders to serve the King, or the State in this kind, be they otherwise never so able, never so willing, nor never so vertuous; which makes me draw a kind of *Timantes* vail over this point, and leave it without any amplification at all, unto your Lordships wise and inward thoughts, and considerations.

Señ. 5.

The fifth point is the *Salvo* made for the two Universities, to have Justices of the peace amongst them of their own heads of Houses, which I confess to be done upon mature, and just consideration, for otherwise the Scholers must have gone for Justice, to those parties to whom they go for their Mustard and Vinegar: but yet under favour the reasons and inducements cannot be stronger, then may be found out for other Ecclesiastical persons, as the Bishop of *Durham*, who was ever since the dayes of *K. John*, suffered by the Princes, and Parliaments of *England*, to exercise justice upon the parties in those parts, as being in truth the Kings subjects, but the Bishops Tenents, and therefore not likely to have their Causes more duly weighed, then when the ballance is left in the hand of their own proper Landlords. The Case of the Bishop of *Ely* for some parts of that Isle, is not much different, but if a little partiality doth nor herein cast some mist before mine eyes, the Case of the Dean and City of *Westminster*, wherein this Parliament is now sitting, is far more considerable, both in the antiquity,

quity, extent of Jurisdiction, and the warrants whereupon it is grounded, then any one of those places before mentioned; for there is a clear Statute made 27. *Elix.* for the drawing all *Westminster*, *St. Clements*, and *St. Martins le grand*, *London*, into a Corporation, to be reigled, by a Dean, a Steward, 12 Burgesses, and 12 Assistants. And if some salve or plaister, shall not be applied unto *Westminster* in this point, all that government and Corporation, is at an end: But this I perceive since is taken into Consideration by the Honorable House of Commons themselves.

I come now to the last point, and the second *Salvo* of *Sec. 6.* this Bill, which is for Dukes, Marquisses, Earls, Viscounts, Barons, or Peers, of this Kingdome, which is a clause that looks with a kind of contrary glance upon persons in holy orders. It seems to favour some, but so that thereby, and in that very Act, it casts an aspersion of baseness, and ignobility upon all the rest of that holy profession; for if no persons in holy orders ought to intermeddle in secular affairs, how come these Nobles to be excepted out of that universal negative? is it because they are nobly born? then surely it must be granted that the rest must be excluded as being made of a rough and base piece of clay: For the second part of this reason in beginning of the Bill, can never bear out this *Salvo*, that the office of the ministry is of so great importance that it will take up the whole man, and all his best endeavours; Surely the office of the ministry is of no greater importance in a poor man, then in a noble man, nor doth it take away the whole man in the one, and but a piece of him in the other; I cannot give you many Instances herein out of Scripture, because you know that in those dayes, *not many mighty, not many noble* were called—&c. *1 Cor. 1. 26.* but when any noble were called, I do not find, but they did put more of the whole man and their best endeavours, upon the ministry, then men in holy orders, are at the least in holy Scripture noted to have done. I put your Lordships in mind of those noblemen of *Berea*, compared with those of *Thessalonica*, in the 17. of the *Acts* of the Apostles: So that this *Salvo* for the nobility must needs be (under your Lordships favour)

your) a secret wound unto the rest of the ministry, unlesse your Lordships by your great wisdome will be willing to change it into a *Panacea* & commonplaster, both to the one, and the other : and under your Lordships favour, I conceive may be done upon a very forcing argument. The office of the ministry is of equal importance & takes up the whole man, and all his best endeavours in the noble born, as well as in the mean born minister, but it is lawfull all this notwithstanding, for the noble born minister to intermeddle with secular affairs, and therefore it is likewise lawfull for the mean born so to do. And so in my Conscience I speak it, in the presence of God, and great noble men; it is most lawfull for them to intermeddle with secular affairs, so as they be not intangled, (as the Apostle calls it) with this intermeddling as to slight and neglect the office of their calling, which no minister noble or ignoble can do without grievously sinning against God and his own Conscience: It is lawfull for persons in holy orders to intermeddle, it is without question, or else they could not make provision of meat and drink, as *Beza* interprets the place: It is not lawfull for them to be thus intangled and bound up with secular affairs, which I humbly beseech your Lordships to consider, not as a distinction invented by me, but clearly expressed by the Apostle himself.

And thus my noble Lords, I shall without any further molestation, and with humble thanks for this great patience leave this great Cause of the Church to your Lordships wise and gracious consideration: Here is my *Mars-Hill*, and further I shall never appeal for justice. Some assurance I have from the late solemn vote and protestation of both Houses, for the maintaining and defending the power, and priviledges of Parliament, that if this Bill were now to be framed, in the one House, it would never be offered without much qualification, as I perswade my self it will not be approved in the other.

Parliaments are indeed omnipotent, but no more omnipotent then God himself, who for all that cannot do every thing. God cannot but perform his promise. A Parliament (under favour) cannot unswear, what it hath already vowed

vowed. This is an old Maxime, which I have learned of the Sages of the Law, a parliament cannot be *seſe de ſe*, It cannot deſtroy or undo it ſelf.

An Act of parliament (as that in the 11. and another in the 21. *Rich. 2.*) made to be unrepealable in any ſubſequent parliament, was *ipſo facto*; void in the conſtitution; why? Becauſe it took away the power and privileges; that is, not the plumes and feathers, the remote accidents; but the very ſpecificall forme, eſſence, and being of a parliament, So if an Act ſhould be made to take away the Votes of all the Commons; or of all the Lords, it were abſolutely a void Act.

I will conclude with the firſt Epiſtle to the *Corinthians*, Cap 12.

Verſ. 15. *If the Foot ſhall ſay; becauſe I am not the hand I am not of the Body, is it therefore not of the body?*

Verſ. 20. *But now are they many Members, yet but one Body.*

Verſ. 21. *And the Eye cannot ſay unto the Hand, I have no need of thee, nor again the Head unto the Feet, I have no need of you.*

Some Annotations upon the Arch- Bishops SPEECH.

WHereas the Arch-biſhop ſaith, *ſect. 3.* That the Biſhops ſate in parliaments and all publick Aſſemblies of State a thouſand years, it is certainly true, as appears fully by the Subſcriptions of their names to all conſtitutions, Laws, and Ordinances, made in the ſeveral great Councils of the Kingdome, in the times of the Sax-on Kings; the manner being then to give their aſſent, not by verbal voting, but by ſubſcribing their names, as fully
P appears

appears in Sir Henry Spelmans Edition of the Councells, at the end of all such Assemblies and Councells, as were then held. And whereas the Arch-bishop saith, that the princes of the Norman race erected the Bishopricks into Baronies, it is very true, as *Cambden* sheweth in his *Britannia*, pag. 170. And so the great Abbots also, heretofore by right and custome were peers of the Kingdome, and did sit in parliaments, to order, decree, and determine. But the Conquerour ordained both Bishops and Abbots to be under military Service, erecting every Bishop and Abbey at his Will and pleasure, and appointing how many Soldiers he would require of them to be furnished for him and his Successors in times of Hostility and War. So that the Tenure and Title of Barons, being imposed on them, it was no addition of honour to them, they being superiour to *Thanes* or Barons though as *Cambden* saith out of *Mathew Paris*. That which was then complained of by the Clergy, and accounted as a burden, in the age ensuing was accounted as the greatest honour. And so it hath continued as a Title of Honour to the Bishops.

Whereas the Archbishop saith, That the Word and Sacraments, the means of our Salvation, will not be effectually received from those Ministers, whose persons shall be so vilified and dejected as to be made no parcels or fragments of the Common-wealth.

This doth certainly prove too true, Religion it self is vilified, and the Word of God and his Sacraments neglected almost in every parish; because the persons that should perform the duties and offices, are become contemptible for want of that Honour and Respect which they enjoyed legally heretofore. Therefore God anciently in the Kingdome of *Israel*, did greatly honour the Tribe of *Levi*, when he made the priests & Levites the principal officers & Judges in every Court, to whom the people were to be obedient upon pain of Death. *Deut. 17. 12*. The Administration of law and Justice throughout the Kingdome depended on them principally. For God made his Covenant with *Levi* of Life and Peace. The Law of Truth was in his Mouth. The Priests Lips should preserve knowledge, and they should seek the Law at his

his Month, *Mal.* 2. 5, 6, 7. and so *Ezekiel* 44. 23. They shall teach my people the difference between the holy and prophane, and cause them to discern between the unclean and the clean, and in Controversie they shall stand in judgement and they shall judge according to my Judgements; and they shall keep my Laws, and my Statutes in all my Assemblies; They being the principal Judges and Lawyers in that Common-wealth of Gods own Constitution. And whereas it is now granted on all hands, that there was three Courts of Justice in that Kingdome, 1. The great Councel of 70. Elders. 2. The Court of Judgement: consisting of 23. 3. The Court of some three or some few more: The Priests and Levites were principal men, both Judges and Officers in all Courts, both *Scophim & Schotrim.* as *1.Chron.* 19. 8, 11. both to give Sentence and Judgement, and also to execute the same. So the Divines do affirm also in their late Annotations upon. *1.Chron.* 26. 29, 30. & *2.Chron.* 19. 8, 11. They did study the Judicial and Politick Laws, and had power to see the Law of God, and injunctions of the King to be observed, and to order divine and humane affairs. And they held also other Honourable offices, for we read that *Zechariah a Levite was a wise Councellour*: and *Benajah a priest son of Jehoadah, was one of Davids twelve Captains, being the third Captain of the Host, for the third moneth, and in his course consisting of 2400, was his son Amizabad. Benajah was also one of Davids principal worthies, having the name among the three mighties. He was also Captain of the Guard to David, and after the Death of Joab, he was made Lord General of the Host by King Solomon in Joabs room 1. King. 2. 35. And this is fully to be proved by excellent learned men. As Sigonius, Bertram, Casaubon, Moulin, especially by the learned Hugo Grotius, upon *Mat.* 5. 21. Where he doth accurately shew out of the Text, *Josephus, Philo*, and other Monuments of the Jews, that there was no distinction of Courts, the one Ecclesiastical, the other Civil, (as *Calvin* and *Beza*, and some others that follow them would have it) but the Judges and Courts were united, and the Priests and Levites the principal Judges and Officers in every Court, to whom the people*

were to be obedient, upon pain of Death. *Deut. 17. 12.* They being appointed to hear every cause between blood and blood, between plea and plea, and between Stroke and Stroke, being matters of Controversie within thy Gates. And as our Laws call them, Pleas of the Crown, and Common pleas, or whatsoever else did arise among them, pertaining to God and the King, *1 Chron. 26. 30. 32.* for which purpose God did scatter them in every Tribe, and turned the curse of Jacob into a singular blessing: to be divided in Jacob, and scattered in Israel. Appointing 1700 to be on the West-side Jordan, and 2700. on the East-side.

Gen. 49. 7

The ancient frame of our Kingdome for 500. years before the Conquest, was thus disposed and governed. As *Spelman* sheweth fully in his learned Glossary and Councils: and happy had it been if things had continued so still: But now the Law being otherwise settled, and the Courts divided, it is not safe, or easie to make alteration. Only without change of Law or Courts, the Benches may continue as they are, though some more Judges be added in most Courts, and some Ecclesiastical persons among them: as in the Saxon times. *Comes præsidebat foro Comitatus, non solus sed adjunctus Episcopo, hic ut jus divinum ille ut humanum diceret; alterque alteri auxilio esset & Consilio: Præsertim Episcopus Comiti, nam in hunc illi animadvertere sapie licuit, & errantem cohibere: Idem igitur utrique territorium, & jurisdictionis terminus.* *Glossarium in Comes pag. 111.*

The Bishop and Earl of the County were joint Magistrates in every Shire, and did assist each other in all Causes and Courts, and so *Mr. Selden* in his History *cap. 14. Sect. 1.* By this means there was great union and harmony between all judges and officers, whereas now there is great contention for jurisdiction, and intollerable clashing in all Courts, by Injunctions, prohibitions, Consultations, and crosse orders, to the great Vexation of the Clients and Subjects. And by multiplying several Courts, the number of Lawyers is greatly increased, as *Lord Cook* sheweth, *4. Instit. p. 76.* Where he gives divers reasons of the increase of Suits in Law, and in the same Book reckoneth up no lesse then 74. Courts of Law and justice of all sorts in the Kingdome, besides

besides the Ecclesiastical Courts: Which are not many for the number, and had little businesse to do, when they were in greatest power. For commonly two or three proctors were enough to dispatch the businesse of any Bishops Court, without Advocates.

But in the Courts of Common Law, there is a far greater number of Lawyers in these times, whereas there was but an 140. Lawyers and Attorneys, appointed by that Martial and Legislative King. *Edw. 2.* When he distinguished the Courts, and appointed the number of Lawyers and Attorneys for the whole Kingdome, whereof the Writ is referred unto by Lord Cook 4. *Instit.* pag. 76. But the writ it self is put down by Spelman in his Glossary pag. 44. & 58. *Sed hodie forte in uno Comitatu, tot solummodo Attornati reperiantur.*

But the Division and Separation of the Ecclesiastical Courts from the Temporal, seems to have proceeded first from Pope Nicholas the first, as is mentioned in Gratian. *Com. Cum ad verum* 96. *Distinct.* about two hundred years before the Conquest, which was imitated among us by William the Conquerour, whose Statute for that purpose is recited and illustrated by Spelman in his Glossary, and lately also published by Mr. Selden and Lord Cook 4. *Instit.* c. 52. So that as the Pope hath been the Authour of much evil in the World oftentimes, so in this particular, when he came to the height of his greatnesse, having (*de facto*) the Supremacy in all Ecclesiastical matters, he made the Clergy subject only to himself, and his Deputies and Legates and such officers as he sent among us. But at length Hen. 8. Contested with the Pope, and recovered the Supremacy of his Crown, though it cost much blood and opposition in his time. But he having recovered it, and it being approved by Parliament, it is fully settled upon the King, and vested in his Crown. ——— And as Lord Cook saith, 4. *Instit.* pag. 331. ——— His Majesty hath, and Queen Elizabeth before him had, as great and ample Supremacy and Jurisdiction Ecclesiastical, as ever King of England had before them; and that hath justly and rightly pertained to them by divers other Acts, and by the ancient Laws of England, if the Clause of annexation in the

the said Statute of 1 Eliz. had never been inserted. Wherefore the Speech of John Pym (as in Rushworths Collections 4. Caroli) That the Supremacy was given by parliament to the Crown (and as he seemeth to understand it) may be taken away by parliament, is a dangerous opinion not to be endured. Lord Cook saith, 4. Instit. pag. 325. The Act 1. Eliz. is an Act of Restitution.] not a gift merely given, which was not formerly due, and belonging to the jurisdiction of the Crown: If therefore the King hath his Supremacy vested in his Crown so firmly, and is *Custos utriusque Tabule* by the Word of God, as the Arch-bishop sheweth; Then this Ecclesiastical Head must be allowed to have some Ecclesiastical Sences, to be consulted withal, excellently learned and principal persons of the Clergy; And as he addeth truly; If *Cranmer* the Arch-bishop had been thus dealt withal, and suppressed in the minority of our young *Josias* Ed. 6. What had become of the great work of our Reformation: and also if *Ridley*, *Latimer*, *Hooper*, and the rest of the protestant Bishops (Martyrs afterwards) had been set aside and neglected, the Reformation could not have been effected. Therefore unless the King have good choice of Ecclesiastical persons, excellently Learned Bishops both in the ancient Councils, Fathers, Histories, and Controversies, and in Canon and Civil Laws, requisite to determine of great difficulties that will continually happen in the Church, whereof the Consuance belongeth to the Spirituality, as Lord Cook sheweth out of the Statute 25. H. 8. cap. 21. and commendeth them for their Knowledge, Integrity and Sufficiency; and if so then, much more at this day, I saith *Coke*.] When all kind of Learning is eminently advanced to an higher degree then in the time of Hen. 8.

John Pym, in another Speech 4. Caroli would have the *Arminian* points settled and determined in parliament, — viz. Concerning *Predestination*, *Absolute Reprobation*, *Universal Grace*, *Free-will*, and *Final perseverance*, before the King should have Subsidies granted, Tunnage or poundage. But if they would give no money to the King, till those difficult points be cleared and resolved, the King must never have

have any Subsidies granted. For those Questions are so mysterious and abstruse, that all the Divines in the world cannot yet resolve fully upon them. But these and such like difficult questions in Divinity belong to the Convocation of the Clergy (as *Cook* sheweth *Inst.* pag. 322.) and they are to be called in time of parliaments, by the Kings Writ, and are to proceed *juxta legem divinam & Canones sancta Ecclesia* saith *Cook*, *ibid.* And they are divided into two parts, viz. The Upper House, where the Arch-bishops and Bishops sit, and the lower House, where the rest do sit. And they have two prolocutors, one of the Bishops of the Higher House chosen by that House, another of the lower house, and presented to the Bishops for their prolocutor. *Cook* *ibid.* The Convocation of the Clergy made the thirty nine Articles of Religion, the Common prayer Book, and the Book of ordination of Bishops, priests, and Deacons: and the Book of Canons: To all which what subscription is required by Law, Lord *Coke* sheweth pag. 323. But in the late long parliament all these Books and good orders are cast aside and neglected, and nothing established in stead thereof. But it is hoped that the most excellent and gracious King *Charles* the Second, will so confirm the Truth of our Religion and all good orders, Laws, Customs, and Rights as there shall be a full and happy Conclusion of all differences and the peace of the Kingdome and Church established, to the advancement of Gods glory, and the rejoycing of all that are truly wise and religious.

Lord *Cook* sheweth pag. 325. How the Commission Court for causes Ecclesiastical was settled,

That such Jurisdiction Spiritual or Ecclesiastical, as by any Spiritual or Ecclesiastical Power or Authority hath heretofore been, or lawfully may be exercised or used for the Visitation of the Ecclesiastical State, and Persons: And for Reformation, Order, and Correction of the same; and of all manner of Errors, Heresies, Schisms, Abuses, Offences, Contempts, and Enormities,

ties, shall for ever be united and annexed to the Imperial Crown of this Realm.

But not to the House of Commons, or any others: but by the dissolution of the high Commission, and all other Courts Ecclesiastical, there is risen up such an infinite and prodigious number of sectaries, factions, divisions in Religion, enormities and disorders, as is lamentable to behold, and all scandalous sins, as adultery, fornication, incest, and such as ought not to be named among Christians, go unpunished dayly. If a bastard Child be gotten, the Justices of the peace do only take care for keeping of the bastard, but for the offence and scandal given to Religion, they do nothing; that belongeth to the Ecclesiastical Court, to injoyn what penance is fitting, according to Ecclesiastical Laws, which have been neglected too much of late, though they are ancient and fundamental, as well as any Common Laws.

But it is testified fully by the best learned Divines in forraign Countries, that our Church of England was the onely Church reformed, by peaceable means, and gracious Princes; whereas others in France, Germany, and other places, were reformed most part by tumults, and violent wars: *Beza* from Geneva, said of the Reformation by Queen Elizabeth: *Doctrina puritas viget in Anglia pure & sincere*: so said *Peter Martyr*, and *Zanchy*. and *Dament*, when they saw the Confession of our faith in the thirty nine Articles, and others parts of our Reformation, so excellently detended by the Renowned Bishop *Jewel*, in his Apology and Defence thereof against *Harding* the Papist, books far more excellent, and pious, then ever *Cartwright*, or any *Presbyterian* published: and of late times, the learned *Deodatius*, professor at Geneva: doth magnifie the Church of England as the most eminent of all the Reformed Churches, stiling it——*Florentissima Anglia ocellus ille Ecclesiarum, peculium Christi singulare, Perfugium afflictorum, imbellium Armamentarium, inopum promptuarium, spei melioris vexillum,——splendida Domini Caule*: and much more he addeth, speaking of our happiness before these troubles, and so it might have continued still,

still; if the Clergy might have enjoyed those rights and privileges, which the priesthood of God, did anciently enjoy in all ages; for in the Law of nature, before *Moses*, the priesthood was honourable: Priests being then the first born and eldest sons of the Family, not younger Brethren, or poor fellows of the basest of the people: How honorable the Priesthood was in the tribe of *Levi*, is well known. Sir *James Sempill* a learned Knight of Scotland, doth shew it fully in his book of Sacriledge in many places. *Cap. 6. Sect. 4.* speaking of the dignity of the Church ministry of old: For riches inheritance in the person of one Royal *Melchisedeck*, Royal, I say, in regard of the great odds between that, and this our age now: For of old, (as writeth *Josephus*) the true mark of nobility was to derive a mans Pedigree from the Priesthood: so *Josephus* was a Gentleman, because *sanguine sacerdotali*. And in our time, the onely best *Tenure* and *Holding* of Possessions, was to hold of the Church, but now all to the contrary: For *Rome* hath frustrate her ministry of Matrimony, and we at home, ours of their patrimony: She can bring forth no well begotten Children, and we but few well beneficed Church men: No *Josephus* in her, and all *Jobs* with us: and instead to hold of the Church, we hold all from the Church, both much amiss: And as he saith in his preface to King *James*,—— Truly it never goeth better, then when the Church Courteeth it, and the Court Churcheth it, for *Moses* and *Aaron* were Brothers.] Well might the Learned and Religious Knight complain that things are much amiss, when in the times of the light of Learning, and Religion reformed hath in great measure flourished among us, but of late been so defaced and deformed, that it is lamentable to report more of it; the Enormities being so great and scandalous, that unless the Kings Majesty out of his singular piety and wisdom, do resume the ancient Jurisdiction of his Crown—— Who onely hath the proper power, and authority to reform and correct all manner of Heresies, Schismes, Abuses, Offences, Contempts, and Enormities:—— [as are the express words of the Statute, 1. *Eliz.* as they are recited and enforced, by Lord *Coke* 4. *Instit.*

pag. 325. there can be little hope of Redress; but as the Queen then, did assign and authorise Commissioners to execute this Jurisdiction, so it may be now done; Commissioners may be appointed by the King to perform, and execute his power in as full and ample manner, as Queen Elizabeth did; and as Lord Coke saith, it may be done without the help of a Parliament, as the King appointeth Judges, and great Officers in all the Courts in *Westminster-hall*, without consent of Parliaments. The Learned Lord Herbert in his History of Hen. 8. relating some passages of the Kings Reformation of some abuses, affirmeth, that the first fatal blow the English Church received, was, when the Redress of her was referred to the House of Commons: Complaint was made for probate of testaments, and morcuaries, of pluralities, non-residence, and priests that were farmers of Lands—&c.

But the King lost; or let go for the present, a principal point of his Supremacy, whereby he might have reformed what was fit to be done in these and many the like businesses, without referring to the House of Commons, and we find that they never left off reforming till they have utterly deformed all, and wholly suppressed all Ecclesiastical Law, Courts and Jurisdictions. The King by his Supremacy might have reformed and prescribed Laws, for probate of Wills, non-residence, pluralities, and many more such matters; the Concurrence of the *Metropolitan* had been sufficient to regulate such matters, according to the Laws Ecclesiastical; for there are Laws Ecclesiastical in this Kingdome as well as Temporal, and as ancient and fundamental as any part of the Common Law, and therefore fit to be duly kept and observed. *Linwood* doth gloss upon the Constitutions made by the Archbishops of *Canterbury*; which are accepted for good Laws by the Common Lawyers in Ecclesiastical matters: and so there are also Constitutions for the province of *York*, and the Northern parts, all which are allowed for good Laws Ecclesiastical by those that are truly learned in the Laws.

*Two SPEECHES spoken in the House of Lords,
by the Lord Viscount Newwarke. The first concerning
the right of BISHOPS to sit and vote in Par-
liament, May 21. 1641.*

MY LORDS,

I Shall take the boldness to speak a word or two upon this subject, first as it is in it self, then as it is in the consequence: For the former, I think he is a great stranger in Antiquity, that is not well acquainted with that of their sitting here, they have done thus and in this manner almost since the conquest, and by the same power and the same right as the other Peers did, and your Lordships now do; and to be put from this their due, so much their due, by so many hundred years strengthened and confirmed, and that without any offence, nay, pretence of any, seems to me to be very severe: if it be *jur*, I dare boldly say it is *summum*. That this hinders their Ecclesiasticall vocation, an argument I hear much of, hath in my apprehension more of shadow then substance in it: if this be a reason, sure I am, it might have been one six hundred years ago.

A Bishop, my Lords, is not so circumscribed within the circumference of his Diocese, that his sometimes absence can be termed, no not in the most strict sense, a neglect or hindrance of his duty, no more then that of a Lieutenant from his County, they both have their subordinate Ministers, upon which their influences fall, though the distance be remote.

Besides, my Lords, the lesser must yield to the greater good; to make wholsome and good Laws for the happy and well regulating of Church and Common-wealth, is certainly more advantageous to both, then the want of the personal execution of their office, and that but once in three years, and then peradventure but a moneth or two, can be prejudicial to either. I will go no further to prove this, which so long experience hath done so fully, so demonstratively.

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And now my Lords, by your Lordships good leave, I shall speak to the consequence as it reflects both on your Lordships, and my Lords the Bishops. Dangers and inconveniences are ever best prevented *et longinquus*, this precedent come near to your Lordships, and such a one, that *mutato nomine de vobis*. Pretences are never wanting, say, sometimes the greatest evils appear in the most fair and specious outsides, witness the Shipmony, the most abominable, the most illegal thing that ever was, and yet this was painted over with colour of the Law; what Bench is secure, if to allege, be to convince; and which of your Lordships can say then he shall continue a member of this House, when at one blow twenty six are cut off. It then behoves the Neighbour to look about him *cum proximus ardet Ucalegon*.

And for the Bishops, my Lords, in what condition will you leave them? The House of Commons represents the meanest person, so did the Master his Slave, but they have none to do so much for them; and what justice can tie them to the observation of those laws, to whose constitution they give no consent, the wisdom of former times gave proxies unto this House meerly upon this ground, that every one might have a hand in the making of that which he had an obligation to obey: This House could not represent, therefore proxies in room of persons were most justly allowed.

And now my Lords, before I conclude, I beseech your Lordships to cast your eyes upon the Church, which I know is most dear and tender to your Lordships, you will see her suffer in her most principal members, and deprived of that honour which here and throughout all the Christian world ever since Christianity she constantly hath enjoyed; for what Nation or Kingdome is there in whose great and publick Assemblies, and that from her beginning, she had not some of hers, if I may not say as essential, I am sure I may say as integral parts thereof: And truly my Lords, Christianity cannot alone boast of this, or challenge it onely as hers, even Heathenisme claims an equal share.

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I never read of any of them, Civil or Barbarous, that gave not thus much to their Religion, so that it seems to me to have no other original to flow from no other spring, than Nature her self.

But I have done, and will trouble your Lordships no longer; how it may stand with the honour and justice of this House to pass this Bill, I most humbly submit unto your Lordships, the most proper and only Judges of them both.

*The Second SPEECH about the Lawfulness and
Conveniency of their intermeddling in Temporal Affairs.*

MY LORDS,

I Shall not speak to the preamble of the Bill, that Bishops and Clergy men ought not to intermeddle in temporal Affairs. For truly My Lords, I cannot bring it under any respect to be spoken of. *Ought* is a word of Relation, and must either refer to humane or divine Law: To prove the lawfulness of their intermeddling by the former, would be to no more purpose, then to labour to convince that by reason, which is evident to sense. It is by all acknowledged, The unlawfulness by the latter, the Bill by no means admits of, for it excepts Universities and such persons as shall have honour descend upon them. And your Lordships know, that circumstance and chance alter not the nature and essence of a thing, nor can except any particular from an universal proposition by God himself delivered. I will therefore take these two as granted, first, that they ought by our Law to intermeddle in temporal affairs, Secondly that from doing so they are not inhibited by the Law of God, it leaves it at least as a thing indifferent. And now my Lords, to apply my self to the business of the day, I shall consider the conveniency and that in the several habitudes thereof, but, very briefly; first in that which it hath to them merely as men, *qua sales*, then as parts of the Common-wealth, Thirdly, from the best manner of constituting Laws, and lastly from the practise of all times both Christian and Heathen,

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Homo sum, nihil humanum à me alienum puto, was indeed the saying of the Comedian, but it might well have become of the mouth of the greatest Philosopher. We allow to sense all the works and operations of sense, and shall we restrain reason? Must only man be hindered from his proper actions? They are most fit to do reasonable things that are most reasonable. For Science commonly is accompanied with conscience; So is not ignorance: They seldom or never meet. And why should we take that capacity from them, which God and Nature have so liberally bestowed?

3. My Lords, the politick body of the Common-wealth is analogical to the body natural: Every Member in that, contributes something to the preservation of the whole, the superfluity or defect which hinders the performance of that duty, your Lordships know what the philosopher calls *quædam res quorundam*. Natures sin. And truly my Lords, to be part of the other body, and do nothing beneficial thereunto, cannot fall under a milder term. The Common-wealth subsists by Laws and their Execution: and they that have neither hand in the making nor hand in the executing of them, confer not to any thing the being or well being thereof. And can such be called Members unless most unprofitable ones? *onely fruges consumere nati.*

4. Methinks it springs from Nature it self, or the very depths of Justice, that none should be tyed by other laws then himself makes; for what more natural or just, then to be bound only by his own consent? to be ruled by anothers will, is meerly tyrannical. Nature there suffers violence; and man degenerates to beast. The most flourishing estates were ever governed by Laws of an universal constitution; witnesse this our Kingdome, witnesse *Senatus Populusque Romanus*, the most glorious Common-wealth that ever was, and those many others in Greece and elsewhere of eternal memory.

Some things, my Lords, are so evident in themselves that they are difficult in their proofs. Amongst them I reckon this Conveniency I have spoken of: I will therefore ⁱⁿ but a word or two more in this way. The long experience that all Christendome hath had hereof for their 300. years

years, is certainly, *Argumentum ad hominem*. Nay my Lords I will go further (for the same reason runs through all Religions) never was there any Nation that employed not their religious men in the greatest affairs. But to come to the business that now lies before your Lordships, Bishops have voted here ever since Parliaments began, and long before were employed in the publike. The good they have done, your Lordships all well know; and at this day enjoy: For this I hope yee will not put them out, nor for the evil they may do, which yet your Lordships do not know, and I am confident never shall suffer. A position ought not to be destroyed by a supposition, & *a posse ad esse non valet consequentia*. My Lords I have done with proving of this positively, I shall now by your good favours do it negatively, in answering some inconveniencies, that may seem to arise.

For the Text, [No man that wars entangles himself with the affairs of this life] which is the full sense of the word both in Greek and Latine, it makes not at all against them, except to intermeddle and intangle, be terms equivalent. Besides my Lords, though this was directed to a Churchman, yet it is of a general nature, and reaches to all, Clergy and Laity, as the most learned and best expositors unanimously do agree. To end this, *Argumentum symbolicum non est argumentativum*. Object. 1.

It may be said that it is inconsistent with a spiritual vocation; truly my Lords, *Grace and Nature* are in some respects impossible, but in some others most harmoniously agree, it perfects nature and raiseth it to a height above the common altitude, and makes it most fit for those great works of God himself, to make laws, to do Justice. There is then no inconsistency between themselves, it must arise out of Scripture, I am confident it doth not, formally out of any place there, nor did I ever meet with any learned Writer of these or other times that so expounded any Text. Object. 2.

But though in strict terms this be not inconsistent, yet it may peradventure hinder the duty of their other calling. My Lords; there is not any that sits here, more for preaching than I am. I know it is the ordinary means to salvi-

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on, yet, I likewise know, there is not that full necessity of it as was in the primitive times. God defend that 1600. years acquaintance should make the Gospel of Christ no better known unto us. Neither, my Lords, doth their office meerly and wholly consist in preaching, but partly in that, partly in praying and administering the blessed Sacraments, in a godly and exemplary life, in wholesome admonitions, in exhortations to virtue, dehortations from vice, & partly in easing the burnd conscience. These my Lords, compleat the office of a Church man. Nor are they altogether tied to time or place, though I confesse they are most properly exercised within their own verge, except upon good occasion, nor then the omission of some can be termed the breach of them all. I must add one more an essential one, the very form of Episcopacy that distinguisheth it from the inferiour Ministry, the orderly and good government of the Church; and how many of these, I am sure not the last, My Lords is interrupted by there sitting here, once in 3. years, and then peradventure but a very short time: And can there be a greater occasion than the common good of the Church and State? I will tell your Lordships what the great and good Emperor *Constantine* did in his expedition against the Persians, he had his Bishops with him whom he consulted about his military affairs, as *Rufinus* has it in his life, lib. 4. c. 56.

Object. 4.

Reward and punishment are the greatest negotiators in all worldly businesses; these may be said to make the Bishops swim against the stream of their consciences, and may not the same be said of the Laity? Have these no operations, but only upon them? Has the King neither frown, honour nor offices, but only for Bishops? Is there nothing that answers their translations? Indeed my Lords, I must needs say that in charity, it is a supposition not to be supposed; no, nor in reason, that they will go against the light of their understanding. The holiness of their calling, their knowledge, their freedom from passions and affections to which youth is very obnoxious, their vicinity to the Gates of death, which, though not shut to any, yet always stand wide open to old age: these my Lords, will surely make them steer aright.

Object. 5.

But of matter of fact there is no disputation, some of them have done ill, *crimine ab uno discant omnes* is a poetical not a logical argument. Some of the Judges have done so, some of the Magistrates, and Officers; and shall there be therefore neither Judge, Magistrate nor officer more? A personal crime goes not beyond the person that commits it, nor can anothers fault be mine offence. If they have contracted any filth or corruption through their own or the vice of the times, cleanse and purge them thoroughly. But still remember the great difference between reformation and extirpation. And be pleased to think of your Triennial Bill which will save you this labour for the time to come; fear of punishment will keep them in order, if they should not themselves through the love of virtue. I have now my Lords, according to my poor ability both shewed the conveniencies, and answered those inconveniencies, that seem to make against them. I should now propose those that make for them, as their falling into a condition worse than slaves, not represented by any; and then the dangers and inconveniencies that may happen to your Lordships; but I have done this heretofore, and will not offer your Lordships *Cramben bis coctam*.

FINIS.

